JAMAICA.

CORRESPONDENCE

RELATING TO THE

SALE OF THE JAMAICA RAILWAY

TO AN

AMERICAN SYNDICATE.

Presented to both Houses of Parliament by Command of Her Majesty.
May 1891.

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TABLE OF CONTENTS.

Serial No.	From or to whom.	Date.	Subject.	Page.
		1888.		
1	Sir H. W. Norman -	November 7 (Rec. Nov. 26.)	Reports on proposals made by Mr. Frederick Wesson, of New York, for the purchase of the Government railway, with a view to further extensions.	1
2	Ditto - - -	December 4 (Rec. Dec. 22.)	Transmits copy of a letter from Mr. Wesson conveying the approval of his associates of the agreement concluded with the Governor.	13
		1889.		
3	To Sir H. A. Blake -	April 3	Comments upon the objections to the draft agreement enclosed in Sir H. Norman's despatch of 7th November 1888, and encloses a new provisional agreement which has been settled in London after negotiations.	14
4	Sir H. A. Blake - -	June 25 (Rec. July 19.)	Transmits "The Jamaica Railway Company's Law, 1889," with copies of messages to the Legislative Council on the subject of the sale of the railway.	23
5	To Sir H. A. Blake -	July 24	Asks for a report upon the pcint indicated before tendering any advice to Her Majesty with respect to the Law No. 12 of 1889, "The Jamaica Railway Company's Law, 1889."	56
6	Sir H. A. Blake - -	August 13 (Rec. Aug. 31.)	Submits observations upon the objections to the Railway Law raised in the Secretary of State's despatch of 24th July and encloses copy of a letter from the Attorney General on the subject.	57
7	To Sir H. A. Blake -	September 2 Telegraphic.	States that the objections to the Railway Law will not be pressed.	61
8	Ditto - - -	September 4	Informs him that Her Majesty will not be advised to exercise her power of disallowance with regard to the Jamaica Railway Company's Law No. 12, of 1889.	61
9	Sir H. A. Blake - -	October 31 (Rec. Nov. 25.)	Transmits a law correcting a verbal error in the Jamaica Railway Company's Law No. 12 of 1889.	61
		1890.		
10	Ditto - - - -	January 10 (Rec. Feb. 3.)	Reports that the railway was handed over to the new Company on the 1st January.	62
11	To Sir H. A. Blake -	February 4	Requests to be furnished with the names of the promoters who are also the first shareholders of the Railway Company, and of the directors.	62
12	Sir H. A. Blake - -	February 25 (Rec. March 17.)	Furnishes the information asked for in the Secretary of State's despatch of 4th February.	62

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on 31 October, 2019

CORRESPONDENCE

RESPECTING THE

SALE OF THE JAMAICA RAILWAY TO AN AMERICAN SYNDICATE.

No. 1.

SIR H. W. NORMAN to LORD KNUTSFORD.

(Received November 26, 1888.)

MY LORD, King's House, November 7, 1888.

ON various occasions during the last two years I have addressed despatches to your Lordship on the subject of railway extension in this Colony, and your Lordship has been made aware that some large and influential portion of the community of Jamaica has urged that extensive and costly extensions should be constructed.

2. Although, no doubt, the lines of railway proposed would tend to develop cultivation and trade, and bring prosperity to many persons, and perhaps eventually to the whole Island, I have not yet felt that I could recommend that measures should be undertaken which would lead perhaps to a doubling of the present debt of this Colony, which is already, in my opinion, sufficiently large, and to an increase of taxation which would, under the most favourable circumstances, have to continue for several years while construction was proceeding and traffic developing. Nor have I been satisfied that any proposal to increase taxation in order to enable railways to be constructed would be acceptable to the majority of the population, while I should be much opposed to the system of paying interest out of capital during construction, and thus burdening the railway with a heavy additional capital outlay.

3. Hence all that has been done with respect to any extension of the railways by the Government has been to have surveys prepared of the two considerable lines of extension from Porus to Montego Bay, and from the Bog Walk to Annotto Bay and Port Antonio, and to have very detailed surveys made of the sections of these two proposed lines that are nearest to the existing railways. These two latter surveys are still in course of prosecution.

4. Apart from any extension of railways by the Government, your Lordship is aware that during the past year there have been indications on the part of some gentlemen from the United States of a desire to construct extensions as an enterprise on the part of capitalists, and, as a part of the scheme, to purchase the existing line; but up to the present time I have not felt myself in a position to address your Lordship officially on the subject. Before I left for England in May last I had some interviews with a gentleman who desired to form a syndicate for the purpose of constructing railways in Jamaica, but no offer was made in a form sufficiently definite for me to seriously deal with it. I was, however, made aware that the elected members of the Legislative Council were, I believe without exception, in favour of selling the whole line to a syndicate, on condition that extensions were constructed and that the interests of the Colony were adequately guarded. One or two of the members, however, were induced to take this view from the belief that the Government were not likely to construct extensions.

5. Just before I started back for Jamaica in August last I received a definite offer from Mr. Wesson, the gentleman whom I had seen in Jamaica and again in New York, on behalf of the gentlemen he was associated with. I did not trouble your Lordship with this offer because I thought its terms were unsatisfactory, and, as on my return here I found that the members of the Privy Council were of the same opinion, I intimated to Mr. Wesson that his offer could not be entertained. I then considered the matter closed, and thought there was no need to make a report to your Lordship.

6. Since then proposals have assumed a more definite shape, for when the Legislative Council met in the end of September, and I informed the members privately of the nature of Mr. Wesson's offer and of my rejection of it, they urged me to let Mr. Wesson make further offers if he was disposed to do so. I had no objection to this, and in consequence of a communication made to Mr. Wesson by a member of the Council he came again to Jamaica, accompanied by a Mr. Davis, a gentleman also interested in starting railway enterprise in this Colony.

7. Having ascertained the views of the elected members of the Council as to the terms they generally considered suitable, I caused the Attorney-General, the Director of Public Works, and the Auditor-General to prepare a memorandum of the terms which might satisfy this Government, on the basis that the present railway was not to be parted with except for a fair value, and on the condition that the sale was to be followed by the proper construction and proper maintenance of extensions to Montego Bay and to Port Antonio. The memorandum thus prepared was generally approved by myself, and was in accord with what I understood to be the views of the elected members of Council. It was, of course, not communicated to Mr. Wesson, but the Attorney-General and Director of Public Works were deputed to confer with him, and to see how far he was prepared to meet the conditions we should require, and Mr. Wesson was warned that no draft of agreement would be of any effect until approved of by myself in the first instance, secondly, by your Lordship, and finally approved by and embodied in an Act of the Legislature of Jamaica.

8. As a result a rough draft was prepared which was generally approved by both sides, and I then, with the Attorney-General and Director of Public Works, met Messrs. Wesson and Davis, and went through the draft clause by clause. During this interview, and at a subsequent meeting, both parties arrived at the conclusion that provisionally the agreement might be accepted, copy of which forms Enclosure A. to this despatch. It is, however, clearly understood and expressed that this agreement is not only purely provisional, but entirely subject, in the first instance, to the approval of your Lordship, and subsequently to that of the Legislature of Jamaica, and that any material alteration in the terms specified in the agreement gives either party an absolute right of withdrawal.

9. Before entering into an explanation of the various clauses of the draft agreement I think I should make some observations as to the object of the arrangements proposed, and as to what is to be urged for and against the scheme.

10. It must first be allowed that the Government is not likely at the present time to construct extensions; at all events, not to anything like the extent contemplated by Mr. Wesson and his friends. Much as nearly everyone in this Island desires to see more railways, there is undoubtedly a strong objection to a heavy increase of debt, and to higher taxation in consequence until railways pay. There is also a feeling that Government constructs railways at a heavier cost than private speculators, and that they do not, and are indeed unable to, take measures to attract traffic by advertisement and other means which are open to a company, and which would doubtless be largely resorted to by a company from the United States.

11. The alternative to construction by Government is construction by a company, and, as a part of such undertaking, it would probably be judged essential by any company to obtain the existing line of Government railway, which extends for 64¼ miles. On the other hand Government would not part with the existing railway, which will probably soon pay all charges for interest on capital borrowed as well as maintenance, except to ensure the construction of comparatively large extensions.

12. It has been thought, therefore, that if a fair price can be obtained for the present railways, combined with security for the construction of extensions, it will be unobjectionable to dispose of the railway, and the object of the draft agreement is to secure both these objects.

13. I enclose copy of a letter dated the 31st October, which is signed by the whole of the elected members of Council, giving their views on the proposed agreement. No doubt there is strong expectation that if outside capital is brought into the Island for the proposed railway, great advantages will ensue, for not only will trade benefit by the extensions, but the gentlemen interested in the railway will be induced—and, indeed, promise—to start lines of steamers for passengers and cargoes, and also to build hotels, and to cultivate the lands which, as hereafter shown, will be at their disposal. They look upon it that, as a health resort, Jamaica would be far more popular, and have greater attractions than Florida or Cuba, to which places very many thousand Americans resort annually, to escape the severe winter of the Northern States. This expectation may be realised or not, but, in coming to terms with Mr. Wesson, no concession has been

made to him based on the consideration of the benefit to Jamaica that may arise from the efforts of the promoters to attract traffic, but it has been desired to obtain as good terms as can be had for the sale of the present railway, and an ample guarantee for the construction and proper maintenance of new lines.

14. Apart from the terms of the proposed agreement, it was necessary to ascertain what references Mr. Wesson could give as to his position and credit, all that was positively known of him being that he had been engaged in financial operations connected with railways in Central America, and that he was a partner in the firm of Hoadley & Co., Bankers and Shipping and Commission Merchants, of New York, having their place of business at 77, William Street, in that city, with a branch at New Orleans, and that inquiries made in New York led to the belief that the firm is one of good repute.

15. For testimony as to the credit of the firm, Mr. Wesson gives the following as his references:—

Messrs. Mildred Goymeche, of London (the firm to which Mr. Birch, a Governor of the Bank of England, belongs);

Messrs. Morton, Rose, & Co., of London;

Messrs. C. Dellatorre & Cie. (Vense), of Paris;

Messrs. Hisse, Neuman, & Co., of Hamburg; and

Messrs. Morton, Bliss, & Co., of New York.

Probably the Crown Agents might be asked to be good enough to ascertain, through some of the above firms, the standing of Hoadley & Co.

16. The next step seemed to be to ascertain the names of the gentlemen who are to be the associates of Mr. Wesson in this enterprise, and whether those he names are willing to accept the terms of the proposed agreement. He has now mentioned as those upon whom he can rely the following gentlemen, and will probably add to this list when he returns to New York, and is able to show to his friends the proposed terms of agreement:—

The firm of Hoadley & Co., mentioned in paragraph 14;

Mr. E. L. Frank, for many years connected with the Chicago, St. Paul, Milwaukee, Denver, Rio Grande, Mexican, Central and Canadian Railways;

Mr. Conrad Jordan, President of the Western National Bank of New York, and Mr. Elija Smith, President of Oregon and Transcontinental Company; and

Mr. A. S. Davis, of New York.

Mr. Wesson assures me that each of these gentlemen represents large moneyed interests, the nature of which he will communicate to me on his return to New York.

17. He will also send a regular provisional acceptance of the terms of the draft agreement from all the gentlemen he names, in accordance with the second clause of the preamble to the agreement. A copy of the communication he may then address to me will be sent for your information in continuation.

18. I will now give some explanation of the terms of the draft agreement, and first it was a condition on the part of the Government that the new company should be domiciled in Jamaica, and be under the laws of the Island, as provided in Clause 1 of the agreement.

19. It had been decided by the Government that the price to be taken for the railway was not to be less than eight hundred thousand pounds (800,000*l.*). It really has cost about eight hundred and thirty-three thousand pounds (833,000*l.*). This covers the cost of repairing the serious flood damages of 1886, as well as the interest paid during construction, but it does not take into account loss owing to traffic receipts not covering interest on capital, nor does it allow for nearly ten thousand pounds (10,000*l.*) paid as import duty to the Colony by the contractors who made the recent extensions. It was urged on behalf of the purchasers that the amount expended on construction was beyond what was requisite, as in their opinion there had been an unnecessary amount of solidity and outlay in constructing the Government railway.

20. After considerable discussion eight hundred thousand pounds (800,000*l.*) was accepted as the sum to be paid, of which one hundred thousand pounds (100,000*l.*) was to be paid down in cash and seven hundred thousand pounds (700,000*l.*) in preference stock. It will be observed that the whole sum to be received in cash and in preference stock is equal to twelve thousand four hundred and fifty-one pounds (12,451*l.*) per mile of the railway.

21. It had been my desire to receive the greater proportion of the eight hundred thousand pounds (800,000*l.*) in cash, and only a small portion in preference stock; but it was urged that it would be difficult to raise so much capital with no immediate prospect of return, and as we should be unable to pay off our railway loans under the

agreements contained in the laws, even if we had the cash, it did not seem necessary to hold out on this point.

22. The receipt of one hundred thousand pounds (100,000*l.*) in cash is, at all events, an earnest of the intention of the promoters to carry on their work, and it will enable the Colony to abstain from borrowing to construct the bridges in Portland and St. Thomas. In fact, it will save us from paying four thousand pounds (4,000*l.*) a year in interest for a loan of one hundred thousand pounds (100,000*l.*), which is the possible cost of all the bridges mentioned in the schedules to laws No. 7 of 1881 and in No. 33 of 1887. The provision for payment of this sum, and for the preference stock to be allotted as part of the purchase money, are contained in clauses 4 and 5 of the draft provisional agreement.

23. Interest on the preference stock is to be paid at the rate of four per cent. per annum, or to such extent short of four per cent. as may be possible after defraying the cost of maintenance of the line and interest on the mortgage bonds to be hereafter mentioned, as these latter are issued.

24. After much discussion four per cent. was accepted instead of five per cent. as I had desired, for the promoters felt that the higher rate would be more than they could afford, and unless the whole agreement was made upon another basis it is not likely that more than four per cent. would be received for many years to come.

25. The result of this arrangement may be estimated approximately as follows:—

We hope to receive during the present financial year a profit of about thirty-one thousand pounds (31,000*l.*) towards defraying charge for interest and sinking fund of the railway after paying all charges of maintenance. The charge for interest is estimated by the treasurer at thirty-two thousand one hundred and seventy-eight pounds (32,178*l.*), and for sinking fund at five thousand nine hundred and sixty-one pounds (5,961*l.*). The latter will gradually increase until it reaches more than eight thousand pounds (8,000*l.*), but then if the railway remained in the hands of Government the profits might somewhat increase, though it is quite possible that the estimate for the present year places them as high as they are likely to reach, unless extensions were constructed. Assuming the revenue as sixty-three thousand pounds (63,000*l.*) and the sum available for interest and redemption as thirty-one thousand pounds (31,000*l.*), the loss to Government this year will be about seven thousand one hundred and thirty-nine pounds (7,139*l.*), and it is doubtful whether additional returns could be hereafter expected that would more than equal the increase in sinking fund payments as well as the interest on a small loan now being raised on capital account. No doubt eventually the Government would have possession of the railway without any debt upon it, but for some years a charge would have to be met.

26. On the assumption that the line is disposed of on the conditions stated in the provisional agreement, the Government lose the railway and possess one hundred thousand pounds (100,000*l.*) in cash and seven hundred thousand pounds (700,000*l.*) in preference stock. The former may be taken to represent four thousand pounds (4,000*l.*) a year, and, for the latter, supposing the traffic returns continue at the rate now estimated, the new proprietors will receive thirty-one thousand pounds (31,000*l.*) in excess of cost of maintenance, assuming that they are unable by an exercise of the energy of a private company to reduce expenses or to increase traffic. Out of this they will have to pay five per cent. interest on mortgage bonds for construction of the new railway, and assuming that the first year three hundred and twenty thousand pounds (320,000*l.*) are raised, and in each succeeding year after the second one hundred thousand pounds (100,000*l.*), they would have in the first year a balance of fifteen thousand pounds (15,000*l.*) to pay over to this Government, and probably the same in the second year, while in the third and fourth years the amount would fall to ten thousand pounds (10,000*l.*) and five thousand pounds (5,000*l.*) respectively. By this time it may fairly be assumed that a sufficient portion of the extensions would be opened to ensure an excess of receipts over maintenance, and that soon after some increase would be made to the sum payable to the Island revenues.

27. The worst that could happen to the Government seems to be that the whole interest and sinking fund might for a time have to be paid out of general revenue, less four thousand pounds (4,000*l.*) a year, the interest of the one hundred thousand pounds (100,000*l.*) to be received in cash, or say about thirty-six thousand pounds (36,000*l.*) a year, but it is to be hoped that as extensions are opened, profits will enable some part of that sum to be obtained from the Company. There would also be some loss in the difference of interest on bonds issued and remaining in deposit and the interest the Government would receive from a bank. This loss would be guarded against to some extent by the provision made at the end of clause 13.

28. It is represented by Mr. Wesson as being absolutely necessary to raise bonds in advance of requirements, as in case of war or some general trade disasters it may not always be easy at a particular time to raise money at short notice, and that therefore in the interest of the undertaking money must be raised in advance.

29. This loss in interest will be only temporary, and, combined with the possible absence of returns on preference stock and consequent obligation of the Government to meet all interest and sinking fund charges on the present railway, would constitute the subsidy to the new railway added to cost of land for the railway track, which the Director of Public Works estimates may amount to thirty thousand pounds (30,000*l.*), and cost of unoccupied lands to be ceded to the promoters, which has not exceeded five thousand pounds (5,000*l.*).

30. It will be observed that by clause 6 of the agreement the Government retain one hundred thousand pounds (100,000*l.*) preference stock paid for by the promoters until the extensions are completed, and from this stock can, under clauses 7 and 8, take the sum forfeited for non-completion of the railway at the periods specified.

31. Clauses 9, 10, 11, 12, 13, and 14 do not seem to require explanation, but it is understood that the "moneyed institution" referred to in clause 11 will probably be the branch of the Bank of Montreal in New York.

32. Clause 15 provides for proper construction.

33. It was at first felt desirable to have as many Government directors as stock-holding directors, but after discussion it was thought that one Government director would be sufficient as provided for in clause 16, while clause 17 prevents remuneration being paid to directors that shall interfere with the payment of interest on preference stock.

34. Clause 18 practically makes the Government the owner of the railway if the whole of the one hundred thousand pounds (100,000*l.*) preference stock deposited with the Government becomes forfeited. This ownership would not, of course, oust the holders of the first mortgage bonds, but, subject to that claim, which I am advised could not be enforced against general revenue, the railway would be the property of the public.

35. Clause 19 is much pressed for by the promoters, and clause 20 meets, I think, the protest on behalf of Kingston wharf-owners, made by Mr. Malabre, the member for Kingston, when he signed the letter referred to in paragraph 13 of this despatch.

36. Clauses 22 and 23 are those giving unoccupied land to the promoters. This land at present is almost valueless, but no doubt parts of it when settled by the promoters will add to their profit and increase the prosperity of the Island. The 100 square miles alluded to in clause 23 is part of the quantity engaged to be given in clause 22, and the provision is desired by the promoters in order to prevent waste land near to their projected lines being offered for sale, and bought as soon as other speculators see where the lines are to run.

37. Clauses 24, 26, 27, and 28 require no explanation, and clause 25 has been inserted in order to avoid the possibility of Government having to pay large sums for land for the railway, and for railway stations within the limits of the towns of Montego Bay and Port Antonio.

38. Although a special reservation as to legislation is inserted in clause 30, it has been explained to Mr. Wesson, and he perfectly understands, that the power of general legislation with respect to the railway remains unrestricted, but that it is, of course, not intended that any legislation should take place that would interfere with specific rights conferred by the agreement.

39. No observations seem required on clauses 31, 32, 33, 34, and 35.

40. Clause 36, though costing the Government nothing, for the bridges are designed to carry trains, is a valuable concession to the company.

41. The remaining clauses and the two schedules do not seem to require explanation.

42. To sum up the obligations of the Government, I would refer to paragraph 26. It would seem that under the most unfavourable circumstances there may be a charge on general revenue for the interest and sinking fund of the present railway, which charges extinguish themselves after fixed periods, besides a certain loss of interest on bonds deposited with the Government in readiness to be used, and the cost of land. It is, however, quite possible that as extensions are opened, interest may come in on preference stock, which will go towards reducing the payments for interest and sinking fund on the present railway. If, under clause 34, the promoters purchase preference stock from the Government, of course the interest of the proceeds will also go towards paying the same charges.

43. It is difficult to over-estimate the advantage to Jamaica if the railway extensions are carried out. To enable them to pay, the promoters will have to exert themselves in a way that cannot but be beneficial to the Island. Their desire is to bring in settlers, to attract visitors, and to develop a trade in the products of the Island, which will lead to a large increase of those products. Jamaica, in common with other West Indian Islands, has languished much of late years. Recently, I think, the Colony has been recovering itself, and the fruit trade has brought much benefit to the Island, but a great deal remains to be done, and the prospect of railway extensions in the hands of enterprising capitalists seems to open out a great prospect for the Island.

44. As a health resort in the winter, Mr. Wesson anticipates large numbers of visitors as soon as they are assured that there are good and fast steamers, means of moving about the Island, and comfortable hotel accommodation. These requirements he promises to provide, and I confess I think he will have the strongest inducement to do so.

45. There are some risks in the scheme proposed, but these risks are limited, while the possible advantages are very great, and I believe the intelligence of the Island is prepared to run the greatest risk that can possibly be incurred in a project like this, in the strong hope that the benefits contemplated may be obtained, and that an era of bright and civilised prosperity may occur in Jamaica.

46. I have now to refer to several points of importance which have to be considered in connexion with the sale of the railway and construction of extensions, and of grants of land to the promoters of the company; and first I would refer to the position of the holders of the Government Railway Loan Debentures. These debentures are charged, not upon the revenues of the railway, but upon the general revenues of the Island, and as the interest and payments to the sinking fund must in any case be paid according to the terms of the laws under which the loans were raised, it does not appear that the creditors can with reason object to the sale of the railway. In fact, since the extensions were made the receipts from the railway have never covered the cost of working and maintenance as well as interest, and the cost of interest on debentures has largely fallen on the general revenues. It seems to me that the only ground for complaint on the part of railway debenture holders would be one which would with equal justice be urged by all holders of Jamaica bonds or stock, namely, that the Government of Jamaica was recklessly embarking in a speculation, or throwing away the resources of the Colony in a manner which might affect the ability of Jamaica to meet its liabilities. If this can be truly urged, then the scheme would work an injustice to all our creditors, and would, no doubt, be disallowed by your Lordship. As, however, it is believed and hoped that the railway extensions in the hands of enterprising Americans will largely add to the prosperity of the country and cause the revenue to increase, I do not think the railway debenture holders or any of the creditors of the Colony have cause for apprehension or complaint.

47. The next point, which is one to which your Lordship will no doubt give attention, is the political effect of the introduction of a large amount of capital, and probably of individuals, from the United States into this Island. Hitherto, very little capital has come here from America, and there are few American speculators, and I think I may say hardly one American capitalist, in the Colony. In fact, I have been surprised to find how little influence is exercised here by the United States. It is true that a large proportion of the trade of Jamaica is with the States, but there are few American firms here, and the trade is carried on in the main with British shipping. On reference to the Blue Book of Jamaica for 1886–87, it will be seen that out of 363 sailing vessels cleared from ports in Jamaica in that year 237 were British, with a tonnage of 28,819 tons, while 51 were American of 14,270 tons, and 39 were Norwegian of 16,443 tons, the tonnage of Norwegian sailing vessels clearing from this Island thus exceeding the tonnage of American sailing vessels. In the case of steamers the difference is more marked, for out of 390 cleared from Jamaica in 1886–87, 359 were British, with a tonnage of 347,656, while only 17 were American, with a tonnage of 5,894.

48. In fact, no effort seems to have been made on the part of the United States, whether by the Government or the people, to extend an influence over this Island, and I believe I can with confidence assert that the number of people who desire an alliance with the United States is insignificant.

49. It is a matter of speculation whether the project now under discussion is likely, if successful, to weaken the attachment of the people to British rule or not, but I should doubt its having any particular effect in that direction, and I do not think the risk of this occurring is sufficiently great to warrant a rejection of the scheme on political grounds.

50. A smaller matter for consideration is the question of what is to become of the staff now employed upon the railway. Mr. Wesson assures me that the new company will be most willing to take over the whole staff, and to employ them as long as they efficiently perform their duties. The only officer of the railway who is a permanent servant of the Government, and entitled to pension on abolition of office, is Mr. L. F. Mackinnon, the manager. I have reason to believe that he would not wish to be transferred to the service of a company, and he will be entitled to pension on abolition of office if not provided with other Government employment. No one else employed on the railway would have a claim to compensation.

51. I would now submit the whole matter to the consideration of your Lordship, and in so doing I wish to express my sense of the imperfect manner in which I may have dealt with proposals of a very complicated and unusual character, and in respect to which there is no past experience or precedent to guide me. There may be, therefore, defects in the scheme which I should have detected, but have overlooked. I firmly believe that if the scheme generally is carried out, it will conduce to the rapid progress of this Island to a condition of prosperity, but I have no doubt that your Lordship may suggest improvements or alterations of a kind which may possibly be accepted by the promoters.

52. It seems to me of importance that any final form of agreement should be prepared by very experienced persons in England, under your Lordship's orders. This agreement would form the foundation of the Bill to be introduced into the Legislative Council of this Island, and unless the terms of the agreement are greatly altered I cannot doubt that it would pass, as in all probability the new Legislature will for the most part be composed of the members now serving, and their views upon the subject are to be seen in the enclosure to this despatch referred to in paragraph 13.

53. Should your Lordship desire fuller explanation on any points than I have given in this despatch, or should you deem it necessary to suggest very material alterations, I think it would be advisable that either the Attorney-General or Director of Public Works, with an elected Member of Council, should proceed to England to confer with your Lordship, and if I receive a telegram saying you desire their presence they will start for England by the first opportunity. I would, at all events, press upon your Lordship not to disallow the scheme without a consultation with gentlemen deputed from hence. Probably it would be preferable to send the Attorney-General rather than the Director of Public Works, as the former will have to carry the Bill through the Legislature, and might gain valuable hints as to the terms of the Bill, while he might easily be back here before the spring session of the Legislative Council, when, if the scheme proceeds, the necessary legislation should take place.

54. I have told Mr. Wesson that possibly gentlemen may have to go to England to explain matters personally to your Lordship, and I understand that in such a case he would desire to go to London himself, or to depute an associate for the purpose, and I have no doubt your Lordship would readily hear what Mr. Wesson or his friend might desire to urge.

55. Before I conclude I wish to acknowledge the obligation I am under to the Attorney-General and to the Director of Public Works for the care, judgment, and patience with which, on behalf of the Government, they have conducted the negotiations with Mr. Wesson and Mr. Davis with respect to the scheme of railway purchase and extension.

I have, &c.
(Signed) H. W. NORMAN,
Governor.

The Right Hon. Lord Knutsford, G.C.M.G.,
&c. &c. &c.

Enclosure 1 in No. 1.

THIS AGREEMENT made the third day of November in the year one thousand eight hundred and eighty-eight between General Sir Henry Wylie Norman, G.C.B., G.C.M.G., C.I.E., Governor of Jamaica, of the one part, and Frederick Wesson and Associates (herein-after termed "the Promoters") of the other part.

It is understood by the promoters that the agreement on the part of the Governor is provisional only, and is subject to the approval of the Secretary of State and to confirmation by the Legislative Council of the Island.

It is understood by the Governor that the promoters will be willing to accept the under-mentioned terms unless they signify their withdrawal on or before the thirtieth day of November instant.

Subject to the above it is agreed between the parties, as follows :—

1. A company shall be formed in Jamaica, with its domicile in the Island, and under the laws of the Island, to be called The Jamaica Railway Company. Such company shall have power to acquire the present railway and such extensions as may be added thereto, and to work the same with locomotives, &c. Such company shall have power to issue first mortgage bonds, to be a first charge on the whole railway, original and extension ; also preference stock to the amount of 800,000*l.*, to rank next in order, and also ordinary stock, the holders of which shall be entitled to divide the profits of the undertaking, after providing for first mortgage bonds and preference stock. The issue of first mortgage bonds and of ordinary stock shall be regulated as herein-after provided.

2. The promoters agree to take up at par 100,000*l.* of the preference stock.

3. The promoters shall be entitled to 100,000*l.* ordinary stock in consideration of their buying the 100,000*l.* preference stock.

4. The Government agree to sell to the company the existing railway for 100,000*l.* cash and 700,000*l.* preference stock.

5. The preference stock is to bear interest at four per cent. and is to be a charge on the whole earnings of the railway (conditioned on such earnings being sufficient in any year to pay it) second only to the first mortgage bonds herein-after mentioned.

6. The 100,000*l.* preference stock purchased by the promoters is to be held by the Government as security for the performance by the promoters of this agreement and to be subject to forfeiture from time to time as herein-after provided. The promoters to get their interest from time to time until forfeiture. On the completion of the extensions the Government will restore to the promoters the 100,000*l.* preference stock deposited as aforesaid, or so much thereof as has not been forfeited or appropriated in satisfaction of indemnities under these Articles.

7. The promoters agree to extend the railway from some point or points to be selected by them on the existing railway so as to provide through railway communication between Kingston and Montego Bay and Port Antonio. Said railway to be of gauge of not less than three feet, and to be constructed according to the specification contained in Schedule 1 hereto. Said railway to be constructed at a rate of 12½ miles within 18 months from the ultimate conclusion of this agreement and to continue at the minimum rate of 12½ miles per annum thereafter, until such through communication is afforded as aforesaid.

8. Any surplus beyond above rate in one year to be credited to next or subsequent year, but, subject as aforesaid, the promoters to forfeit 1,000*l.* of the preference stock held by the Government as security as before provided for every mile short of 12½ miles completed in any year, unless promoters are prevented by force majeure, &c.

9. In order to pay for the extensions as the same shall be completed the company shall have power from time to time to issue bonds to the extent of 8,000*l.* per mile of completed road, original and extension. The promoters undertake to negotiate these bonds. A first issue of these bonds may be made to the extent of 320,000*l.* and thereafter at the rate of 200,000*l.* at a time as 25 miles of additional road are completed and added to the railway, until the last section is completed when a final issue may be made to the full extent of 8,000*l.* per mile of original and extended railway.

10. The bonds until issued to be vested in trustees and to be issued from time to time in accordance with this agreement, only with the consent of the Governor for the time being.

11. All proceeds of bonds to be placed in some responsible moneyed institution and to be paid out only on joint signature of Governor and promoters.

12. Promoters to build the line at their own expense. As a section of not less than 12½ miles is completed within the meaning of this agreement same to become the property of the company on its paying for same in proceeds of bonds at the rate of 8,000*l.* bonds per mile or (if there are no proceeds in hand) in bonds at above rate and an equal amount of common stock of the company.

13. And whereas it is foreseen that by this method of borrowing money in advance of actual requirements a loss will always be going on to the extent of the difference between the five per cent. payable on the bonds issued and the interest paid by the bank on the proceeds of same, and that this loss will primarily fall on the preference stock, the promoters hereby agree that after the expiration of two years from the day

when any such bonds are issued as aforesaid any such loss shall be borne by themselves and that they will indemnify the company against same, and that their 100,000*l.* preference stock deposited with the Government as aforesaid shall stand as security for such indemnity.

14. The aforesaid bonds shall bear interest at the rate of five per cent. per annum and shall constitute a first charge on the whole railway, original and extension.

15. No section of extension shall be considered "completed" within the contract until it has been examined by a Government Inspector and been reported by him to be built in accordance with this agreement and to be safe for public traffic and to be properly and adequately equipped with station buildings and sidings and with rolling stock, &c. Moreover, in case the promoters determine to construct the extensions of a lesser gauge than the present line no section shall be deemed to be complete unless the promoters shall have added a third rail on the whole of the old line between the junction of the extension therewith and Kingston, and made such alteration in the stations and buildings and sidings on the old line as may be necessary to accommodate the narrow gauge stock.

16. The government of the railway shall be in a board of directors of whom the ordinary stockholders shall nominate four members, and the Government of the Island one member, three to be a quorum.

17. Nothing beyond travelling expenses shall be paid to the directors for their services that shall prevent the interest on the preference stock being paid in full.

18. On the whole of the 100,000*l.* preference stock deposited with the Government as security as aforesaid becoming exhausted from forfeitures the whole of the ordinary stock of the company to be forfeited to and to become the property of the Government.

19. Until such exhaustion as aforesaid the Government will not itself, nor will it sanction any other body to build any other railway in the Island (except tramways for horse cars along the public roads). After completion of the said extensions the Government would not sanction any line that would compete with the company; provided that if any railway should be proposed that would not be open to the objection of being a competing line the Government would give the company the prior right of undertaking it and only on their refusal should be at liberty to allow its construction by others.

20. A line of railway from some point between the station at Kingston and the sea, along the foreshore of the harbour eastward, shall not be deemed a "competing line" within the meaning of these articles. Accordingly, if the Government or any person or body of persons desires to construct such line, and the company or the Promoters are unwilling to undertake the same, it may be undertaken by others, and in the latter event the company shall allow such line to be connected with the railway and shall allow its trucks to run over the said line to the different wharves connected therewith, so as to allow to the occupiers of such wharves facilities equal to those enjoyed by persons shipping from the Prince's Wharf. There shall be allowed to the company, on its working the said line as aforesaid, demurrage in respect of any undue detention of the rolling stock employed in the said service at a rate to be agreed upon.

21. In the event of the company constructing such foreshore railway the same shall count as an "extension" of the railway within the meaning of these articles.

22. The Government agrees to give the promoters one square mile of land for each mile of the extension (provided Government has it) completed as aforesaid and to give same free of all charges. Such land to be free of all taxes (except such as fall on occupied houses) including quit rents for ten years. After expiration of ten years quit rents to be payable and to be a charge on the land, but not to be enforceable against promoters personally or against the Company. The lands to be granted as aforesaid shall include only the lands of the Crown that are not in the occupation of the Crown or any lessee of the Crown.

23. Promoters to be at liberty within one year of the conclusion of this agreement to select one hundred square miles of land, and Government agrees not to sell to outsiders any part of such land so selected for a period of five years from the date of the conclusion of this agreement.

24. The company in respect of its earnings and the railway shall for thirty years be free of all taxes, except that the stations will be liable to parochial taxation as being occupied houses.

25. The Government shall provide the track for any extension except through the limits of Kingston, Montego Bay, and Port Antonio. The Government will further so far as engineering difficulties and local circumstances permit allow the Railway Company to lay its rails and run its trains over the streets in the said towns of Montego Bay and Port Antonio so as to connect the station with the seashore, on the company

undertaking that the trains passing along the said streets shall not exceed the speed of four miles an hour and taking such other precautions for the safety of passengers as the Government may approve of.

26. All contracts, &c., between the Government and promoters or between Government and the company or between the promoters and the company shall be free of stamp duty.

27. Company shall have the right to construct telegraph and telephone lines along the lines of railway but not to make the same available to the public so as to compete with Government telegraph.

28. The rates for traffic shall not exceed the rate mentioned in Schedule 2 hereto and no preference to be shown; but this shall not be understood to prevent the company from agreeing to carry large quantities at a lower rate than they carry small quantities.

29. Government reserves to itself the right from time to time to promote such legislation as may appear to be necessary to give effect to preceding clause and to prevent the company from using the practical control it would have of traffic over a large part of the Island so as to secure to itself or its friends anything like a monopoly of any branch of industry or article of produce.

30. The line shall be inspected during construction and from time to time during its working by a Government Inspector, and the Government shall have the right to insist upon proper provision being made for the safety of traffic.

31. So long as the Government is holder of preference stock there shall be an official audit of the books of the company.

32. The company will afford all proper facilities for the safe carriage of mails, and will carry the same at such reasonable rate as may be agreed upon or failing agreement as may be determined by arbitration.

33. The company will carry Her Majesty's troops or militia and the constabulary in uniform and travelling on duty at half rates.

34. The promoters shall have the right at any time to purchase at par such portion of the preference stock as the Government may hold or any part thereof, on giving six months' notice of their desire or intention to do so.

35. It is understood that the Government will give the promoters the benefit of all surveys of the projected lines of extension.

36. It is understood that the bridges about to be built across the Pencar, Dry, White, Buff Bay, Spanish, Swift, and Rio Grande Rivers are intended to bear locomotives, and the Government will allow the company to lay their rails and run their trains over the said bridges, the company providing gates and gatekeepers for security of traffic. After the construction of the said bridges the Government will not be answerable to the company in case the same should be destroyed, broken, or carried away. After the completion of the bridges aforesaid the same shall be maintained and repaired at joint expense of the Government and the company.

37. The Government shall procure the passing of a law to render free of duty for thirty years all plant, tools, and materials used in construction, working, and maintenance of the railway.

38. Should there at any time arise any difference between the Government and the promoters, or the Government and the company, or the company and the promoters, as to the performance of this contract it is to be settled by arbitration, the Government selecting one arbitrator and the promoters one, and they failing to agree they are to mutually agree on a third. Should the Government refuse to accept any work under this contract thereby causing arbitration, and such arbitration is decided against the Government, the Government is to allow the promoters interest at the current rate for the period they have been kept out of their money.

39. It is understood that the expression "the railway" shall include the Prince's Wharf and all the property of the railway connected with such wharf; but the said wharf and property will be transferred subject to the provisions of an agreement between the Government and the Atlas Steamship Company, dated the twenty-second day of November one thousand eight hundred and eighty-one.

40. The Government agrees to furnish the promoters with a schedule of all properties of the railway such as real estate, lands, wharves, storehouses, rolling stock, machinery, surveys, maps, and drawings.

Schedule 1.

The works of the extension railways must comply with the following conditions:—

The track of the railway must be fenced on both sides with fences equal in stability and durability to those of the existing railway, except in cases where by special written

agreement with the landowners the fences are dispensed with or modified. Such accommodation gates and other works shall be provided as shall be stipulated for in the conveyances of land or may be required by law.

Alterations and deviations of public roads where necessary shall be constructed in accordance with plans and sections approved by the Director of Public Works. At all level crossings of public roads gates and gate-houses shall be provided similar to those on the existing railway or otherwise, as may be approved by the Director of Public Works.

The width of the formation of all cuttings shall, for a single track, be not less than the following :—

For a gauge of 4 feet 8½ inches - - - -	18 feet.
„ „ 3 „ 6 „ - - - -	15 „
„ „ 3 „ 0 „ - - - -	14 „

The width of the formation of all embankments shall, for a single track, be not less than—

For a gauge of 4 feet 8½ inches - - - -	16 feet.
„ „ 3 „ 6 „ - - - -	13 „
„ „ 3 „ 0 „ - - - -	12 „

The slopes of the cuttings and embankments shall be sufficient to ensure their stability and must be approved by the Government Inspector before the line shall be considered to be completed.

Parallel tracks shall have a width of not less than six feet between the adjacent rails, and the formation widths in such cases shall be such as will give a width beyond the outer rail on each side equal to that provided for single tracks.

Drainage works shall be provided on all parts of the line sufficient to keep the formation of the railway free from water at all times, and to prevent injury to the slopes of the cuttings and embankments. Culverts and drains shall in all cases be constructed of durable materials.

All bridges, viaducts, and retaining walls shall be constructed on solid foundations, secure from injury by floods, and shall be of uninflammable and durable materials.

They shall be competent to support a distributed rolling load equal to one ton per lineal foot of the railway track with a factor of safety of not less than five. The designs and specifications must be approved by the Director of Public Works.

The permanent way shall be laid with steel rails weighing not less than fifty pounds per lineal yard, fished at the joints and securely fastened to good and durable cross sleepers of dimensions and material to be approved by the Director of Public Works, at intervals averaging not more than three feet from centre to centre, and in no case exceeding three feet three inches. The line shall be ballasted throughout with good clean gravel or broken stone, completely encasing the sleepers, and there shall in all cases be not less than six inches depth of ballast under the sleepers.

The promoters shall guarantee the stability of all works of the extension lines and the sufficiency of the drainage works for the period of twelve months after the completion of each section, and shall indemnify the company from all and any loss which may be incurred during such period through insufficient stability or insufficient drainage in any part of the line or works. No gradient shall be steeper than one in thirty (3⅓ per cent.), nor shall any curve be of less radius than three hundred and thirty feet.

SCHEDULE 2.

The charges for the carriage of passengers shall in no case, unless with the previous sanction of the Governor in Privy Council, be at a greater rate per mile than is now charged on each class on the existing railway.

The charges for the carriage of goods shall in no case, unless with the previous sanction of the Governor in Privy Council, exceed the rates per mile now charged on the existing railway by more than ten per cent. in addition to terminal charges not exceeding by more than ten per cent. the terminal charges now charged on the existing railway.

In witness whereof the parties hereto have hereunto set their hands on the day and year first herein-before written.

H. W. NORMAN,
Governor.
FREDERICK WESSON.

Witness to signatures—
HENRY H. HOCKING,
Her Majesty's Attorney-General.

Enclosure 2 in No. 1.

The ELECTED MEMBERS OF COUNCIL to Sir HENRY NORMAN.

Legislative Council Chamber, Jamaica,
October 30, 1888.

SIR,

WE desire to thank your Excellency for communicating to us the provisional agreement which has been arrived at, after much deliberation, between the Government of Jamaica and Mr. Wesson and his associates, for the purchase and extension of the Jamaica Railway. Whilst we recognise that these extensions might perhaps be built by the Government for a sum within the resources of the Island, we feel that no Government undertaking can grant the same facilities and advantages to the public which are to be obtained from private enterprise.

We appreciate the value of the existing railway, as well as the responsibility which rests on your Excellency in dealing with this proposal to sell it, but, having regard to the great benefits which we feel certain must accrue from the introduction of capital, energy, and enterprise into Jamaica, and to the extension of trade with the United States, especially in connexion with our daily increasing fruit production, for which there is no other market, we are unanimously of opinion that the proposed agreement should be substantially carried into effect.

Having given the subject our careful consideration, and with a full recognition of the responsibility we take on ourselves, we urge your Excellency to accept the proposal of Mr. Wesson and his associates, and to recommend it for the approval of Her Majesty's Government.

We respectfully submit that as affairs like this are not infrequently wrecked by delay, it is incumbent on us to impress on your Excellency the importance of bringing the arrangement to completion as early as is practicable.

We have, &c.

(Signed) C. S. FARQUHARSON,
M.L.C. Westmoreland and Hanover.

(Signed) J. M. FARQUHARSON,
M.L.C. St. Elizabeth.

(Signed) ROBERT CRAIG,
M.L.C. Clarendon.

(Signed) WILLIAM MALABRE,
M.L.C. Kingston and St. Andrew.
(Subject to footnote.)

(Signed) MICHAEL SOLOMON
(by authority ROBERT CRAIG),
M.L.C. St. Ann and St. Mary.

(Signed) WELLESLEY BOURKE,
M.L.C. St. James and Trelawny.

(Signed) W. BANCROFT ESPEUT,
M.L.C. Portland and St. Thomas.

(Signed) T. L. HARVEY,
M.L.C. St. Catherine.

Only to secure extensions of the railway, and because the Government will not undertake the extensions which I think they ought to do without delay on behalf of the people of the Island.

(Signed) J. P. CLARK,
M.L.C. Manchester.

Mr. MALABRE's Note.

I have signed this on the understanding that the extensions will include a foreshore railway in Kingston, and that the rights of the general public are protected in respect to the railway wharf.

(Signed) WILLIAM MALABRE.

No. 2.

SIR H. W. NORMAN to LORD KNUTSFORD.

(Received December 22, 1888.)

MY LORD, King's House, December 4, 1888.

IN continuation of my despatch of the 7th ultimo,* on the subject of the offer that has been made for the purchase of the Jamaica Railway, I have the honour to forward, for your Lordship's information, a copy of a letter which I have received from Mr. Wesson, the promoter of the syndicate, with a copy of a letter addressed to him by his associates in the matter in New York, approving of the provisional arrangement arrived at.

I have, &c.
(Signed) H. W. NORMAN,
Governor.

The Right Hon. Lord Knutsford, G.C.M.G.,
&c. &c. &c.

Enclosure in No. 2.

Mr. WESSON to the GOVERNOR.

DEAR SIR HENRY NORMAN, New York, November 20, 1888.

ON my arrival in New York I at once submitted the proposed agreement between the Jamaica Government and myself, for the purchase and extension of the Jamaica Railway, to my associates, and while the wording of the provisional agreement required considerable explanation, and was felt to be strictissimi juris, it was, after being carefully studied and understood, approved and accepted, and I now enclose to you a written document to that effect.

As some of these gentlemen did not fully understand the method by which the concession was to be obtained, it was a surprise to them to find that the assent of the Secretary of State was necessary, and I have been obliged to agree to their terms, that that assent should be obtained within reasonable time, as they were unwilling to pledge their capital for an indefinite period.

I would therefore venture to suggest to your Excellency that if it should seem advisable to send two gentlemen to represent the Colony in London with the Secretary of State, that on receipt of cable advice from you, either I or one or more of my associates will be prepared to go to London to meet them about January 1st.

Permit me to express the appreciation of Mr. Davis and myself for the courtesy extended to us during our stay in the Island, and

Believe me to be, &c.
(Signed) FREDERICK WESSON.

His Excellency Sir Henry Norman,
&c. &c.

FREDERICK WESSON, ESQ.,

DEAR SIR, New York, November 20, 1888.

WE approve of the provisional arrangement obtained by you from the Jamaica Government, and agree to carry the same into effect in accordance with the terms of a certain agreement of subscription dated 19th November 1888.

Yours truly,
(Signed) C. D. FRANK & Co.
HOADLEY & Co.
— JORDON.
C. J. CANDA.
F. E. CANDA.
ELIJAH SMITH, by E. W. FRANK.

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* No. 1.

No. 3.

LORD KNUTSFORD to SIR H. A. BLAKE.

SIR, Downing Street, April 3, 1889.

I HAVE given very careful consideration to the scheme for the sale of the Jamaica Railway to a company, and the construction of extensions to Montego Bay and Port Antonio embodied in the provisional agreement signed by your predecessor and Mr. Frederick Wesson, a copy of which was transmitted to me with Sir Henry Norman's despatch of the 7th of November last.*

2. Being unable to entertain the scheme without further explanations than were afforded by that despatch, I requested, in accordance with the suggestion in paragraph 53, that the Attorney-General of Jamaica and one of the elected Members of Council might come to London to confer with me on the matter. Mr. Hocking and Mr. Charles Farquharson accordingly came over for that purpose, and I have had the advantage of fully discussing the scheme with them, and also with Sir Henry Norman before his departure for Queensland.

3. Mr. Wesson and some of the gentlemen who are associated with him in the scheme have also been in London, and after prolonged negotiation they have accepted certain modifications of the scheme which I considered to be indispensable conditions of my authorising you to submit it to the Legislative Council. In those circumstances I have authorised Mr. Hocking and Mr. Farquharson to make with Mr. Wesson and his associates on behalf of the Government of Jamaica subject to confirmation by the Legislative Council the new provisional agreement enclosed herewith in substitution for the agreement of the 3rd of November.

4. The most serious defect in the original scheme, in my opinion, was the absence of any provision to meet what previous experience in Jamaica, as well as in other Colonies, has shown to be a not improbable contingency, viz., the failure of the company (or of the first mortgage bondholders if they should take possession of the railway on default of payment of their interest) to maintain the railway in an efficient state and to work it effectively. In such an event it would almost certainly be necessary for the Government, in the interests of the community, to take over the railway, and accordingly in the new agreement provision is made by which, in the event of such failure, after allowing a reasonable time for the company or the bondholders to make good the defects, the company is to be wound up and the railway to be taken over by the Government, subject to the mortgage debt, and, in order that the Government may not be burdened with a perpetual charge of interest at 5 per cent. on 1,500,000*l.* of first mortgage bonds, those bonds are to be converted into Government inscribed 3½ per cent. stock. On the other hand, it is provided that the company may be wound up with the same consequences at the instance of the first mortgage bondholders in the event of the bondholders, or the Government at their request, having taken possession of the railway on the company making default in payment of the interest on the bonds or in keeping the railway in proper working order.

5. It is further provided that the Government shall receive in consideration for the sale of the railway, in addition to 100,000*l.* cash, 700,000*l.* second mortgage bonds of the company instead of the like amount of preference stock, the promoters also receiving 100,000*l.* second mortgage bonds instead of preference stock. In the event of the Government taking over the railway the interest on these second mortgage bonds would be payable out of the surplus profits (if any) after providing for the interest and sinking fund of the inscribed stock issued in exchange for first mortgage bonds.

6. The new agreement also stipulates for a minimum of 90 per cent. for the issue price of the first mortgage bonds; defines more precisely the lines of the proposed extensions; authorises the issue of about 20,000*l.* first mortgage bonds, in addition to those of which the proceeds are to be paid to the promoters for constructing the extensions in order to provide funds for capital improvements; provides for the retention for 12 months after the completion of the extensions of 30,000*l.* bonds out of those of which the proceeds are to be paid to the promoters for the purpose of securing the expenditure on the repairs and replacements chargeable to the promoters, and gives to the director to be nominated by the Government a control over the expenditure of the company.

I have now to instruct you to submit the agreement in its present form to the Legislative Council, and if it meets with their approval I am prepared to advise Her Majesty to allow the law which will have to be enacted to give effect to it.

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*No. 1.

7. It should, however, be distinctly understood that I do not accept any responsibility for the scheme, nor do I press its acceptance upon the Council. The experience of other Colonies points to the conclusion that it is generally more advantageous for a Government to construct railways than to grant concessions to companies for that purpose, even where the concession does not, as in this case, include the parting with a flourishing railway in exchange for a security which must be more or less of a speculative character. The scheme of constructing a railway entirely with borrowed money without any subscribed share capital is a novel experiment in a British Colony, and the enclosed offer* from Messrs. Leech, Harrison, and Forwood, which should be communicated to the Legislative Council, appears to indicate that the terms of the provisional agreement are considered in the City of London not otherwise than favourable to the promoters.

8. I have to request that you will cause this despatch and the provisional agreement to be published in the Colony as soon as possible.

I have, &c.
(Signed) KNUTSFORD.

Sir H. A. Blake.

Enclosure in No. 3.

THIS AGREEMENT, made the 29th day of March A.D. 1889, between HENRY HICKS HOCKING, Attorney-General of Jamaica, and CHARLES SALMON FARQUHARSON, of Savanna le Mar, in the Island of Jamaica, Merchant and Member of the Legislative Council of the said Island (acting on behalf of the Government of Jamaica as herein-after stated), of the one part, and FREDERICK WESSON, of the City of New York, in the United States of North America, Merchant, and his Associates, of the other part.

WHEREAS an agreement was made on the 3rd day of November A.D. 1888 between General Sir Henry Wylie Norman, G.C.B., G.C.M.G., C.I.E., Governor of Jamaica, of the one part, and the said Frederick Wesson and his associates (therein-after and herein-after termed "the promoters"), of the other part, for the transfer to a company to be formed of the Jamaica Railway, and for the construction of certain extensions thereof.

And whereas such agreement was expressed on the part of the said Governor to be provisional only, and subject to the approval of Her Majesty's Secretary of State for the Colonies and to confirmation by the Legislative Council of Jamaica.

And whereas the parties hereto of the first part have been deputed by the Government of Jamaica, at the request of the said Secretary of State, to proceed to London to further negotiate with the said Frederick Wesson and his associates on the subject of the said agreement.

And whereas, as the result of the negotiation aforesaid, it has been agreed between the parties hereto to draw up this fresh agreement in substitution for the first-mentioned agreement and in further elaboration of the same.

And whereas accordingly this fresh agreement has been made between the parties hereto.

And whereas the parties hereto of the first part have received no direct authority from the Government of Jamaica to enter into any agreement on its behalf, but Her Majesty's said Secretary of State has approved of their doing so, and they consent to do so, it being understood that such agreement on their part is subject to the approval and confirmation of the Legislative Council of Jamaica.

Now this agreement witnesseth that the parties aforesaid have, subject as aforesaid and with the approval aforesaid, agreed as follows:—

1. A law shall be passed by the Legislature of Jamaica for the incorporation of a company, with its domicile in Jamaica and under the laws of the Island. Such company shall be styled "The Jamaica Railway Company." The members of such company shall be the holders for the time being of the ordinary stock thereof. Such company shall have power to acquire the present Jamaica Government Railway and the extensions mentioned in Article 7 hereof, and to carry on the trade of common carriers of passengers and goods thereon. Such company shall have power, as soon as it shall have acquired the present Jamaica Government Railway, to mortgage the same together with the aforesaid contemplated extensions of the same to Montego Bay and Port Antonio

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* Not printed.

respectively, for 1,500,000*l.* by the issue of first mortgage bonds in manner and subject to the conditions herein-after set forth. The company shall also issue second mortgage bonds to the amount of 800,000*l.*, which shall rank next to the first mortgage bonds as a charge on the undertaking, and also ordinary stock, the holders of which shall be entitled to divide the profits of the undertaking after providing for the interest on the first mortgage bonds and the second mortgage bonds. The issue of the first and second mortgage bonds and ordinary stock shall be regulated as hereafter provided.

2. The promoters agree to take up at par 100,000*l.* of the second mortgage bonds, and it shall be a term of the law for the incorporation of the company that they shall be incorporated only on their lodging this sum in a place to be indicated by the Government to the credit of the company as the purchase money for the said bonds.

3. The promoters shall be entitled to 100,000*l.* ordinary stock of the company in consideration of their taking up the like amount of second mortgage bonds.

4. The Government agree to sell to the company the existing railway with all rolling stock and other equipment belonging thereto for 100,000*l.* cash and 700,000*l.* second mortgage bonds. This price shall include all stores in hand on the day of the assignment, but stores ordered and not then come to hand shall be paid for by the company.

5. The second mortgage bonds shall bear interest at four per cent. per annum conditioned on the earnings of the railway being sufficient to earn that sum, and if in any year they are not sufficient, then at such lower rate as the earnings of such year may enable the company to pay, but there shall be no claim in any year for the unpaid balance of a past year. Such interest shall be a charge on the whole property and earnings of the company second only to the first mortgage bonds.

6. The 100,000*l.* second mortgage bonds purchased by the promoters shall be transferred by them to the Government to be held as security for the performance by the promoters of this agreement, and shall be subject to forfeiture from time to time as herein-after provided. The promoters shall from time to time be entitled to receive the interest due in respect of such bonds or of so much of the same as has not been forfeited or appropriated as herein-after mentioned. On the final completion of the extensions the Government will restore to the promoters the bonds deposited as aforesaid, or so much thereof as has not been forfeited or appropriated in satisfaction of indemnities under these Articles.

7. The promoters agree to extend the existing railway from some point near Bog Walk Station northwards to the sea, and then easterly to Port Antonio; and from May Pen or Porus or some point between these two places through the interior of the Island to Montego Bay. The said railway shall be of a gauge of not less than three feet, and shall be constructed in accordance with the specification contained in Schedule One hereto. The construction of the said railway shall proceed at the rate of 12½ miles within 18 months of the passing of the law for the incorporation of the company, and shall continue at the minimum rate of 12½ miles per annum thereafter, until through communication is afforded by the routes above indicated between Kingston and Port Antonio and Kingston and Montego Bay.

8. Any surplus beyond the above rate in one year shall be credited to the next or any subsequent year; but, subject as aforesaid, the promoters shall forfeit to the Government 1,000*l.* of the second mortgage bonds held by the Government as security as before provided for every mile short of 12½ miles completed in the said period of 18 months, and for every mile short of 12½ miles completed in any year thereafter. Provided that the promoters shall be excused from such forfeiture to the extent to which they may be able to establish that they have been prevented from performance of their agreement by the act of God or the Queen's enemies.

9. Immediately on the formation of the company, the company shall execute first mortgage bonds bearing interest at a rate not exceeding five per cent. per annum to the total amount aforesaid, and shall place them in the hands of trustees, to be agreed upon between the Government and the promoters, upon trust to hold the same until issue, and to issue the same from time to time only in accordance with this agreement and with the consent of the Governor of Jamaica for the time being, and on production by the allottee of a receipt from the bank or other institution into which under Article 12 the proceeds of bonds have to be paid, showing that the sum in respect of which the same has been allotted has been paid into such bank or institution to the joint account of the Governor and the company.

10. No bond shall be valid to bind the company unless it has been issued by the trustees aforesaid.

11. The promoters undertake to negotiate these bonds at their own risk, trouble, and expense; provided that they shall not be issued below 95 without the consent of the Governor.

12. All proceeds of bonds shall be placed in some bank or responsible moneyed institution to be agreed on between the Governor and the promoters to the joint credit of the Governor and the company, and shall be paid out only on their joint signature. Any interest paid by the bank or other institution in respect of any such deposit shall be the property of the company, and shall be applicable, as far as the same will extend, to payment of the interest on the said bonds.

13. The issue of first mortgage bonds shall be regulated as follows:—Immediately on the formation of the company the company may issue bonds to the extent of 320,000*l.*; as soon as 25 miles are completed, a second issue may be made of 200,000*l.*; on completion of a second 25 miles, a third issue may be made to the same extent; and on completion of 75 miles, a fourth issue may be made, so as to provide such sum as may be required to make up 8,000*l.* bonds per mile of the estimated length of the extensions. On the ultimate completion and transfer to the company of the said extensions, a further issue may from time to time be made to the full extent of 1,500,000*l.*

14. The proceeds of bonds shall be devoted solely to defraying the cost of the extensions, in manner herein-after provided, and of capital improvements on the line.

15. The railway and its equipment shall be kept up in the state in which the same is acquired by the company out of the earnings of the company; but any new building or works, and any increase in the amount of rolling stock that may be deemed necessary for the proper development of the traffic on the railway, shall be deemed to be a capital improvement, and the cost of the same shall not be paid out of the earnings.

16. For the purpose of executing any such capital improvement as aforesaid, any bonds remaining unissued and kept in reserve as herein-after provided may be issued, and, moreover, power shall be given to the company from time to time to issue ordinary stock in return for capital subscribed.

17. The promoters are to build and equip the extensions at their own expense. As a section of not less than 12½ miles is completed and added to the railway, within the meaning of this agreement, the same shall become the property of the company on its paying for the same in proceeds of bonds at the rate of 8,000*l.* bonds per mile, and an equal amount of ordinary stock of the company.

18. On the final completion of the extensions any of the bonds remaining unissued that shall be in excess of the rate of 8,000*l.* bonds per mile of completed road, original and extension, shall be kept in reserve, to be issued only from time to time, as occasion may require, with the consent of the trustees for the bondholders and of the Governor of Jamaica, for defraying the cost of any capital improvements on the line, as herein-before defined. The remaining bonds (after reserving bonds of the value of 30,000*l.*) shall be allotted to the promoters by way of deferred payment for the construction of the extensions. The above-mentioned 30,000*l.* bonds shall be kept in reserve for a period of 12 months, during which time they may from time to time be issued as money is required to defray the cost of any repairs or replacements that the promoters may be under obligation to make upon the railway. At the conclusion of such period of 12 months the said bonds, or so much of them as may remain unissued, shall be allotted to the promoters. Provided that this clause shall not be deemed to limit the liability of the promoters to make all necessary repairs and replacements.

19. And whereas it is foreseen that by this method of borrowing money in advance of actual requirements a loss will always be going on to the extent of the difference between the five per cent. interest payable on the bonds issued and the interest paid by the bank or other institution aforesaid on the proceeds of the same, and that this loss will fall primarily on the second mortgage bonds, the promoters hereby agree that after the expiration of two years from the day when any such bonds are issued as aforesaid, any such loss shall be borne by themselves, and that they will indemnify the company against the same, and that their 100,000*l.* second mortgage bonds deposited with the Government as aforesaid shall stand as security for such indemnity.

20. The company shall enter into a covenant with the bondholders duly to pay the principal and interest secured by the bonds at the times appointed for payment thereof respectively, and further to use due diligence to keep up the line and the works and the rolling stock in good order and condition, so that continuous communication may be had along the whole line, and so that trains may be run with safety at the speed of 15 miles an hour or at such greater speed as under the arrangements of the company is attained by their trains. For properly securing the performance of these covenants the company shall convey to trustees to be appointed by the bondholders, with the approval of the Government of Jamaica, as well the present railway from Kingston to Porus and from Spanish Town to Ewarton as the contemplated extensions thereof mentioned in Article 7, as and when the same shall be acquired by the company under the provisions of this agreement, together with all rolling stock and other property thereon or used

therewith, and all lands, bridges, viaducts, workshops, tools, appliances, and stores, and other property connected therewith or belonging thereto in trust, until default shall be made by the company to the extent herein-after stated in observance of the covenants aforesaid or either of them, to allow the company to possess and enjoy the same and with power to the trustees, on the company making default in observance of either of the covenants aforesaid (and such first-mentioned default continuing for a period exceeding one year, or such second-mentioned default continuing after the attention of the company has been called to the same by the trustees, for a period exceeding three months), to call upon the Governor of Jamaica to assume and take possession of the railway and property assigned, and to work the same for the benefit of all concerned, until the company shall be no longer in default, and with further power to the trustees, in case the Governor being called upon as aforesaid shall decline to interfere, themselves to assume and take possession as aforesaid. And it shall be provided that on the Government, at the request of the trustees as aforesaid, or on the trustees themselves, taking over and working the railway as aforesaid, the trustees shall convene periodical meetings of the bondholders in the city of London for the purpose of considering and discussing the future prospects of the undertaking, and that if at any such meeting duly convened after such advertisement as may be provided there be present in person or by proxy bondholders representing 500,000*l.* bonds, and it be determined by a majority of those present in person or by proxy (such majority representing not less than 500,000*l.* bonds) to present a petition to the Supreme Court of Jamaica to wind up the company, the trustees shall present such petition accordingly. And it shall be provided that the said court, on being satisfied—

(*a*) that such default as aforesaid occurred and continued as aforesaid;

(*b*) that the Government on such request as aforesaid or the trustees, on the refusal of the Government as aforesaid, entered and took possession as aforesaid; and

(*c*) that at such meeting, duly convened as aforesaid while the company remained in default as aforesaid, the requisite majority of the bondholders determined that the petition should be presented as aforesaid, the court shall make a decree for the winding up of the company.

21. The Government shall be empowered in case the company fail—

(*a*) to keep up the line and the works and the rolling stock in good order and condition to the satisfaction of any officer of the Government appointed to inspect the same, so that continuous communication may be had along the whole line, and so that trains may be run with safety at the speed at which trains are required to be run, or at such greater speed as under the traffic arrangements of the company is attained by their trains; or

(*b*) to run at least one train a day each way available to the public for passengers and goods over the whole length of the line at a minimum average speed (inclusive of stoppages) of 15 miles an hour;

to call the attention of the trustees and of the company to the default, and if, after attention has been called as aforesaid such first-mentioned default is not remedied within six calendar months, or such second-mentioned default continues for a period of three calendar months, it shall be made lawful for the Government to present a petition to the court aforesaid to wind up the company. Such petition shall be served as well on the trustees as on the company; and if, on the presentation of such petition it be made to appear—

(*a*) that such default occurred as aforesaid;

(*b*) that attention to the same was called as aforesaid; and

(*c*) that after attention was called as aforesaid such default was not remedied within such period as aforesaid,

the court shall order the default to be remedied within such sufficient time as the court shall fix for the purpose, and unless such order is complied with, shall make a decree for the winding up of the company.

22. On a decree being made in either of the cases aforesaid for winding up the company, an account shall be taken by the court—

(*a*) of the principal and interest due upon the first mortgage bonds;

(*b*) of the second mortgage bonds outstanding; and

(*c*) of the unsatisfied debts of the company.

Proof shall be made of the debts as in case of bankruptcy, and it shall be made lawful for the Attorney-General to dispute and require proof of any of the debts, even though the creditors may have obtained judgment against the company.

23. On such account having been taken as aforesaid, the Government shall—

(*a.*) Give to each first mortgage bondholder Jamaica Government inscribed 3½ per cent. stock at the rate of 100*l.* stock for each 100*l.* bond, and pay to each

such bondholder such sum as added to sums received by way of interest (whether the same shall have been in satisfaction of previously accrued arrears or not) during the two years preceding that date of winding up, will make up the interest received during such two years to 3½ per cent. per annum; and

(*b.*) Pay in full all the creditors who have duly proved their debts as aforesaid, and shall then take over the railway subject only to the right of the second mortgage bondholders to receive their interest at the rate of 4 per cent. per annum in any year in which the net profits of the railway after payment thereout of 3½ per cent. and 1 per cent. for sinking fund on the prescribed stock allotted to the bondholders are sufficient for such payment, and thereupon the court shall decree absolute possession to the Government of all and singular the railway and other mortgaged property, and such decree shall vest the said railway and property in the Government, subject only as aforesaid, and shall be a perpetual bar to all claim or right of the ordinary stockholders of the company to the said premises and every part thereof.

24. Provision shall be made in the law for the incorporation of the company for obliging the company—

(1.) To keep all proper books of account to the satisfaction of the Government, and make such periodical returns of the traffic and earnings as may be required by the Government.

(2.) To keep up the line and the works and the rolling stock in good order and condition to the satisfaction of any officer of the Government who may be appointed to inspect the same, so that continuous communication may be had along the whole line, and so that trains may be run with safety at the speed at which trains are required to be run, or at such greater speed as under the traffic arrangements of the company is attained by their trains.

(3.) To run at least one train a day each way available to the public for passengers and goods over the whole length of the line at a minimum average speed (inclusive of stoppages) of 15 miles an hour, provided that if continuous safe communication be from any cause interrupted, the company shall not incur any penalty for the breach of this obligation if they can show—

(*a*) that they have taken prompt and energetic measures to restore the communication; and

(*b*) that they have run such trains as aforesaid, at the speed aforesaid, over those parts of the line where the communication is not interrupted.

25. It shall be made lawful for the officer aforesaid from time to time and at all times to inspect the line and the works and the rolling stock of the company, and bring to the notice of the company any defect in the same, and unless such defect is forthwith repaired to the satisfaction and under the inspection of the officer aforesaid, it shall be made lawful for the officer aforesaid to hire workmen and procure materials and to repair such defects himself, and the cost of such work and materials, certified under the hand of the officer aforesaid, shall be enforced against the company in the same way and by the same means as a judgment recovered in the Supreme Court.

26. In case of any breach of obligation (3) aforesaid the company shall be made liable for a penalty of 50*l.* a day, to be recovered by action of debt in the Supreme Court at the suit of the Attorney-General.

27. In all cases in which it may be provided by law that any penalty shall be incurred by the company, payment of such penalty shall not be made out of the assets of the company to the prejudice of the second mortgage bondholders, but payment of any such penalty may be enforced against the ordinary stockholders jointly or severally, and if any such penalty recovered against the company shall have been paid out of the assets of the company, thereby diminishing the amount coming by way of interest to the second mortgage bondholders, such sum may be recovered at the suit of the Attorney-General on behalf of the Government by action of debt either against the company or against the ordinary stockholders jointly or severally.

28. No section of extension shall be considered "completed" within the contract until it has been examined by a Government inspector and been reported by him to be built in accordance with this agreement and to be safe for public traffic, and to be properly and adequately equipped with station buildings and sidings, and with rolling stock, &c. Moreover, in case the promoters determine to construct the extensions of a lesser gauge than the present line, no section shall be deemed to be complete unless the promoters shall have added a third rail on the whole of the old line between the junction of the extension therewith and Kingston, and made such alteration in the

stations and buildings and sidings on the old line as may be necessary to accommodate the narrow gauge stock. The promoters shall not be entitled to be paid for any section unless the same be part of a continuous line to Kingston, or unless such section connect with the sea at Annetto Bay, Port Antonio, or Montego Bay.

The "equipment" to be furnished by the promoters for each section shall be such as, when the whole line is completed, will give to the 185 miles of road (that being the estimated length of the whole line, original and extensions) an equipment which, taking into account the size and capacity of the locomotives and carriages constituting the same, will, in the judgment of the Director of Public Works, be as full and adequate an equipment for a line of 185 miles as that which was on the present Government railway on the 3rd November 1888 (inclusive of new engine trucks and carriages which at that date were ordered) was for a line of 65 miles.

29. The government of the railway shall be in a board of directors, of whom the ordinary stockholders shall nominate four members and the Government of the island one member, three to be a quorum. No contract for goods or stores in excess of 100*l.* shall be binding on the company, and no salary in excess of that amount shall be granted except with the concurrence of the director appointed by the Government. Provided that in the event of the Government director refusing his concurrence in any proposal, the company shall have the right of appeal to the Governor in Privy Council.

30. Nothing beyond travelling expenses shall be paid to the directors for their services that shall prevent the interest on the second mortgage bonds being paid in full.

31. Should the whole of the 100,000*l.* second mortgage bonds deposited with the Government as security aforesaid become exhausted for forfeitures, the whole of the ordinary stock of the company shall be forfeited to and become the property of the Government. Until such exhaustion as aforesaid, the Government will not itself build, nor will it grant its sanction to any other body to build, any other railway in the island (except tramways for horse cars along the public roads). After completion of the said extensions the Government will not for a period of 40 years sanction the construction of any line calculated to compete with the railway the subject of this agreement; provided, that if any railway should be proposed that would not be open to the objection of being a competing line, the Government would give the company the prior right of undertaking it, and only on their refusal should be at liberty to allow its construction by others.

32. A line of railway from some point between the station at Kingston and the sea, along the foreshore of the harbour eastward, shall not be deemed a "competing line" within the meaning of these Articles. Accordingly, if the Government or any person or body of persons desire to construct such line, and the company or the promoters are unwilling to undertake the same, it may be undertaken by others, and in the latter event the company shall allow such line to be connected with the railway, and shall allow its trucks to run over the said line to the different wharves connected therewith, so as to allow to the occupiers of such wharves facilities equal to those enjoyed by persons shipping from the Princes Wharf. There shall be allowed to the company, on its working the said line as aforesaid, demurrage in respect of any undue detention of the rolling stock employed in the said service at a rate to be agreed upon.

33. In the event of the company constructing such foreshore railway, the same shall count as an "extension" of the railway within the meaning of these Articles.

34. The Government shall for each mile of the extension completed as aforesaid give to the promoters one square mile of land (provided that the Government has that quantity of land as herein-after described at its disposal), and the same shall be given free of all charges. Such land shall be made free of all taxes (except such as fall on occupied houses), including quit rents for 10 years. After the expiration of 10 years, quit rents shall be payable and be a charge on the land, but shall not be enforceable against promoters personally or against the company. The lands to be granted as aforesaid shall include only the lands of the Crown that are not in the occupation of the Crown or any lessee of the Crown. The promoters shall not be entitled, except with the sanction of the Governor, to take up any lands hereto-before patented, except in whole blocks or patents, or any unpatented lands except in blocks of not less than 300 acres.

35. The promoters shall be at liberty within one year of the conclusion of this agreement to select 100 square miles of land, and Government agrees not to sell to other persons any part of such land so selected for a period of five years from the date of the conclusion of this agreement.

36. The company in respect of its earnings and the railways shall for 30 years be free of all taxes, except that the stations will be liable to parochial taxation as being occupied houses.

37. The Government shall provide the track for the said extensions, except through the limits of Kingston, Montego Bay, and Port Antonio. The Government will further, so far as engineering difficulties and local circumstances permit, allow the railway company to lay its rails and run its trains over the streets in the said towns of Montego Bay and Port Antonio so as to connect the station with the seashore, on the company undertaking that the trains passing along the said streets shall not exceed the speed of four miles an hour, and taking such other precautions for the safety of passengers as the Government may approve of.

38. All contracts, &c. between the Government and promoters, or between Government and the company, or between the promoters and the company, shall be free of stamp duty.

39. Company shall have the right to construct telegraph and telephone lines along the lines of railway, but not to make the same available to the public so as to compete with Government telegraph.

40. The rates for traffic shall be from time to time determined by the company without any interference on the part of the Government or the Legislature, so that the same shall not exceed the rates mentioned in Schedule 2 hereto, and no preference to any person or persons shall be shown; but this shall not be understood to prevent the company from agreeing to carry large quantities at a lower rate than they carry small quantities.

Any contract made by the company or the promoters with any person or body of persons which may be calculated to give such person or body of persons any undue preference or monopoly shall be null and void to all intents and purposes.

41. Government reserves to itself the right from time to time to promote such legislation as may appear to be necessary to give effect to preceding clause, and to prevent the company from using the practical control it will have of traffic over a large part of the island, so as to secure to itself or its friends anything like a monopoly of any branch of industry or article of produce.

This article shall not be deemed in any way to limit or affect the inherent right of the Government from time to time to promote such legislation not inconsistent with the terms of this agreement as may appear to be necessary in the interest of the island whether for the regulation of the affairs of the company or otherwise.

42. The line shall be inspected during construction, and from time to time during its working by a Government inspector, and the Government shall have the right to insist upon proper provision being made for the safety of traffic.

43. So long as the Government is holder of second mortgage bonds there shall be an official audit of the books of the company.

44. The company will afford all proper facilities for the safe carriage of mails and will carry the same at such reasonable rate as may be agreed upon or failing agreement as may be determined by arbitration.

45. The company will carry Her Majesty's troops or militia and the constabulary in uniform and travelling on duty at half rates.

46. It is understood that the Government will give the promoters the benefit of all surveys of the projected lines of extension. Provided that the Government shall not be deemed to incur any liability to the promoters in respect of any errors or omissions in the said surveys or the estimates furnished in connexion therewith.

47. It is understood that the bridges about to be built across the Pencar, Dry, White, Buff Bay, Spanish, Swift, and Rio Grande Rivers are intended to bear locomotives, and the Government will allow the company to lay their rails and run their trains over the said bridges, the company providing gates and gatekeepers for security of traffic. After the construction of the said bridges the Government will not be answerable to the company, in case the same should be destroyed, broken, or carried away. After the completion of the bridges aforesaid the same shall be maintained and repaired at joint expense of the Government and the company.

The Government shall not be liable to the promoters or the company in respect of any delay in the construction of the said bridges; provided that if any section of the railway through the district watered by the said rivers is completed (save and except the crossing of the said rivers or any of them) before the completion of the said bridges, the Governor will not withhold his sanction to the drawing of the money to pay for the same.

48. The Government shall procure the passing of a law to render free of duty for 30 years all plant, tools, and materials, used in construction, working, and maintenance of the railway.

49. Should there at any time arise any difference between the Government and the promoters, or the Government and the company, or the company and the promoters, as to the performance of this contract, the same shall be settled by arbitration, the one party to such difference selecting one arbitrator and the other party another, and the arbitrators so appointed failing to agree shall appoint an umpire whose decision shall be final. Should the arbitrators be unable to agree upon an umpire, such umpire shall be appointed by the Supreme Court. Should the Government refuse to accept any work under this contract, thereby giving rise to an arbitration, and such arbitration is decided against the Government, the Government shall allow the promoters interest at the current rate for the period they have been kept out of their money.

50. It is understood that the expression "the railway" shall include the Prince's Wharf and all the property of the railway connected with such wharf; but the said wharf and property will be transferred subject to the provisions of an agreement between the Government and the Atlas Steamship Company, dated the twenty-second day of November one thousand eight hundred and eighty-one, and to the provisions of another agreement between the Government and the Atlas Steamship Company, dated the day of , and generally the company in taking over the said railway from the Government will take over the same subject to any subsisting agreement between the Government and any person or body of persons, and will indemnify the Government against the same.

51. The Government agrees to furnish the promoters with a schedule of all properties of the railway, such as real estate, lands, wharves, storehouses, rolling stock, machinery, surveys, maps, and drawings.

Schedule I.

The works of the extension railways must comply with the following conditions:—

The track of the railway must be fenced on both sides with fences equal in stability and durability to those of the existing railway, except in cases where by special written agreement with landowners the fences are dispensed with or modified. Such accommodation gates and other works shall be provided as shall be stipulated for in the conveyance of land or may be required by law.

Alterations and deviations of public roads, where necessary, shall be constructed in accordance with plans and sections approved by the Director of Public Works. At all level crossings of public roads, gates and gatehouses shall be provided similar to those on the existing railways, or otherwise as may be approved by the Director of Public Works.

The width of the formation of all cuttings shall, for a single track, be not less than the following:—

For a gauge of 4 feet 8 inches - - -	18 feet.
„ „ 3 „ 6 „ - - -	15 „
„ „ 3 „ 0 „ - - -	14 „

The width of the formation of all embankments shall, for a single track, be not less than—

For a gauge of 4 feet 8½ inches - - -	16 feet.
„ „ 3 „ 6 „ - - -	13 „
„ „ 3 „ 0 „ - - -	12 „

The slopes of the cuttings and embankments shall be sufficient to ensure their stability and must be approved by the Government Inspector before the line shall be considered to be completed.

Parallel tracks shall have a width of not less than six feet between the adjacent rails, and the formation widths in such cases shall be such as will give a width beyond the outer rail on each side equal to that provided for single tracks.

Drainage works shall be provided on all parts of the line sufficient to keep the formation of the railway free from water at all times, and to prevent injury to the slopes of the cuttings and embankments. Culverts and drains shall in all cases be constructed of durable materials.

All bridges, viaducts, and retaining walls shall be constructed on solid foundations, secure from injury by floods, and shall be of uninflammable and durable materials.

They shall be competent to support a distributed rolling road equal to one ton per lineal foot of the railway track, with a factor of safety of not less than five. The designs and specifications must be approved by the Director of Public Works.

The permanent way shall be laid with steel rails weighing not less than 50 lbs. per lineal yard, fished at the joints, and securely fastened to good and durable cross sleepers, of dimensions and material to be approved by the Director of Public Works, at intervals averaging not more than three feet from centre to centre, and in no case exceeding three feet three inches. The line shall be ballasted throughout with good clean gravel or broken stone, completely encasing the sleepers, and there shall in all cases be not less than six inches depth of ballast under the sleepers.

The promoters shall guarantee the stability of all the works of the extension lines and the sufficiency of the drainage works for a period of 12 months after the completion of each section, and shall indemnify the company from all and any loss which may be incurred during such period through insufficient stability or insufficient drainage in any part of the line or works. No gradient shall be steeper than 1 in 30 ($3\frac{1}{3}$ per cent.), nor shall any curve be of less radius than 330 feet.

SCHEDULE II.

There shall always be on all trains by which the company carry passengers at least two classes of fares for the carriage of passengers, of which the lower shall not (except with the consent of the Governor in Privy Council) exceed per mile the present rate in force per mile on the Government railway for third-class passengers, and the higher shall not exceed (except with the consent aforesaid) the present rate for first-class passengers. If the company has an intermediate class of fares, the same shall not (unless with the consent aforesaid) exceed the present second-class rate.

The charges for the carriage of goods shall in no case, unless with the previous sanction of the Governor in Privy Council, exceed the rates per mile now charged on the existing railway by more than 10 per cent. in addition to terminal charges not exceeding by more than 10 per cent. the terminal charges now charged on the existing railway.

In witness whereof the parties hereto have hereunto set their hands on the day and year first herein-before written.

(Signed) HENRY H. HOCKING.
" C. S. FARQUHARSON.
" FREDERICK WESSON.

Executed by the parties in duplicate.
Initial H. H. H.

No. 4.

SIR H. A. BLAKE to LORD KNUTSFORD.
(Received July 19, 1889.)

MY LORD, King's House, June 25, 1889.

I HAVE the honour to forward, for the signification of Her Majesty's pleasure, an authenticated copy of Law 12 of 1889, entitled "The Jamaica Railway Company's Law, 1889," with the Attorney-General's report thereon.

2. I also forward for your Lordship's information copies of two messages which I addressed to the Legislative Council in regard to the sale of the Jamaica Railway and the construction of the extensions, together with a newspaper report* of the discussion in the Council on the subject.

I have, &c.
(Signed) HENRY A. BLAKE,
Governor.

The Right Hon. Lord Knutsford, G.C.M.G.,
&c. &c. &c.

Enclosure in No. 4.

JAMAICA—LAW 12 OF 1889.

The Jamaica Railway Company's Law, 1889.—(18th June 1889.)

WHEREAS an agreement dated the 29th day of March A.D. 1889, has been entered into, on behalf of the Government of Jamaica, for the purchase of the Jamaica Railway Preamble.

* Not printed.

by a company to be incorporated for that purpose, and for the construction by the persons in the said agreement and in this law referred to as "the promoters" of certain extensions of the said railway, and the transfer of such extensions to the said company, and for the working of the whole of the said railway and extensions by the said company which said agreement has been supplemented by a subsequent agreement dated the 24th day of May 1889, a copy of which agreements is contained in the schedule to this law:—

And whereas it is expedient to approve and ratify the said agreements, and to make provision for carrying the same into effect:—

Be it enacted by the Governor and Legislative Council of Jamaica as follows:—

Definitions. 1. In the construction of this law and of the said agreements the following terms and expressions shall, except when such meaning is inconsistent with the context, have the meanings hereby assigned to them respectively:—

Person. The term "person" shall include any corporation constituted under either the laws of this island or the laws of any other country.

The company. The term "the company" shall mean the Jamaica Railway Company constituted under this law.

The Governor. The term "the Governor" shall mean the Governor of Jamaica or other Officer Administering the Government thereof for the time being.

The railway. The term "the railway" shall include the present railway and such portion of the extension as shall for the time being be vested in the company.

The present railway. The term "the present railway" shall mean the railway in existence at the time of the passing of this law, viz., the railway from Kingston to Porus and that from Spanish Town to Ewarton.

The extension. The term "the extension" or "the extensions" shall mean the railways proposed to be built under this law and described in Article 7 of the said agreement.

The said agreement. The term "the said agreement" shall mean the agreement, dated the 29th March 1889, between H. H. Hocking and C. S. Farquharson of the one part, and Frederick Wesson and his associates of the other part, as modified by a supplementary agreement, dated the 24th May A.D. 1889, between the Governor of Jamaica of the one part, and the said Frederick Wesson and his associates of the other part, both which said agreements are set forth in Schedule A. to this law.

The term "metre gauge" as used in the said agreement shall mean a gauge of thirty-nine and three-eighths inches.

The term "equipment" as used in the said agreement shall include the provision of a proper telegraph line for the purpose of working the said railway.

The word "inspector" shall mean an inspector of the railway appointed under this law, and shall, except where such construction is inconsistent with the provisions of this law, include an assistant inspector appointed as aforesaid.

Ratification of agreement as explained or modified herein. 2. The said agreement is hereby ratified and confirmed, and the Governor is hereby authorised and required to perform and carry out the conditions thereof according to their purport, and the said agreement shall be binding on and available to the company as if the company had been a party to the same.

Provided always, that, whereas it was agreed by Article 17 of the said agreement that the promoters should be entitled to be paid for any section of the extension as the same is completed and "added to the railway," and by Article 28 that "the promoters should "not be entitled to be paid for any section unless the same be part of a continuous line "to Kingston, or unless such section connect with the sea at Annotto Bay, Port Antonio, "or Montego Bay;" and whereas there is an apparent conflict between the two articles which it is desirable to clear up in the sense in which the same were intended, and whereas the concession was made as to connecting with the sea, at the places aforesaid, so as to enable the promoters to push on the work more quickly, by enabling them to proceed with each extension at more points than one, and not so as to enable them to work at the extension to Montego Bay solely from Montego Bay, or at the extension to Port Antonio solely from Annotto Bay or Port Antonio, it is hereby provided that a section connecting with the sea at Montego Bay, or a section connecting with the sea at Annotto Bay or Port Antonio, shall be deemed to be "added to the railway," within the meaning of Article 17, only in case that, since the completion and taking over of any previous section, connecting with the sea as aforesaid, of the extension of which such section forms part, an amount of work equivalent to that involved in the construction of such section (not necessarily the same mileage) shall have been done at the Porus or May Pen or the Bog Walk end (as the case may be) of the extension of which such first-named section forms part.

Provided also, that after the completion and taking over of a section of not less than twelve-and-a-half miles of either extension connecting with the sea as aforesaid, the promoters shall, subject to the provisions of the preceding proviso and of Article 28 of the said agreement, be entitled to have taken over by the company any sections of either extension which, though each such section is less than twelve-and-a-half miles, make up that length in the aggregate.

Provided also that in the construction of Articles 31 and 32 of the said agreement the expressions "refusal" and "unwilling to undertake" shall be held to refer to a refusal or an unwillingness expressed, or a neglect to assent, only after a reasonable time shall have been allowed for decision, and a neglect to proceed with the work in the said article referred to within a reasonable time after assent to undertake such work shall have been given shall be deemed equivalent to an original refusal or expression of unwillingness to undertake.

The contract between the Government and the Atlas Steamship Company, Limited, secondly mentioned in Article 50, and described as such agreement "dated the day of " shall be taken to mean an indenture of demise by Edward Noel Walker, Colonial Secretary of Jamaica, of the premises No. 90, Port Royal Street, in the city of Kingston, dated the 1st day of April 1883, for the term of five years (extended by endorsement thereon for a further term of three years), together with a contract contained in a letter from the Atlas Steamship Company, dated the 5th May 1888, as answered by a letter from the Colonial Secretary dated the same day.

If in any way and in so far as the said agreement shall have been modified or altered by the provisions of this law the promoters shall, on taking steps for the incorporation of the Company under the next section, be deemed to have assented to such alteration or modification.

The Jamaica Railway Company,—how and when constituted.

3. On the said Frederick Wesson within twelve months after the passing of this law, by himself or his agent duly appointed under his hand, lodging in the Government Treasury in Kingston the sum of one hundred thousand pounds to the credit of the Colonial Secretary for Jamaica in trust for the company when formed, and filing with the Deputy Keeper of the Records the receipt of the Treasurer for the same, together with a memorial under the hand of him the said Frederick Wesson, setting forth at length the names, addresses, and additions of the several persons subscribing the said sum of one hundred thousand pounds, and the proportions in which the said sum has been subscribed by the said several persons, and an undertaking in writing signed by the said several persons declaring themselves to be the associates of the said Frederick Wesson alluded to in the said agreement, and their acceptance of the obligations of the said agreement, the said several persons and all other persons who, under the provisions herein-after contained, shall become the holders of the stock of the company, and their executors, administrators, successors, and assigns respectively, shall be and are hereby constituted a body corporate by the name of "The Jamaica Railway Company," and the said Deputy Keeper shall give the said Frederick Wesson a certificate of such incorporation, and shall cause a notice of such incorporation to be inserted in the "Jamaica Gazette."

The said Frederick Wesson and the persons referred to in this section as lodging the said sum of one hundred thousand pounds aforesaid, and who shall have become the body corporate herein named, shall also be deemed to be "the promoters," referred to in the said agreement and in this law, though as such promoters entirely distinct and separate from the said corporation "The Jamaica Railway Company."

Such promoters shall, for the better developement of their said enterprise, be permitted to form among themselves a partnership, joint stock company or corporation, as they may decide, for the carrying out of the terms and conditions of this law and the said agreement; and they may from time to time associate with themselves in such partnership, joint stock company or corporation, as the case may be, any other person or persons desirous of taking part in their said enterprise.

Should a corporation be formed by the said promoters aforesaid together with such other person or persons as aforesaid for the purpose aforesaid, such corporation shall be and become "the promoters" within the meaning of the said agreement and this law, and such corporation may be formed under the laws of the Island of Jamaica or may be a foreign corporation; the provisions herein-before mentioned with respect to such corporation shall with like force and effect be applicable to a promoter's partnership or a promoter's joint stock company.

General powers and rights of the Company.

4. The company shall have perpetual succession and a common seal, and shall by and in its corporate name be entitled to sue and be sued, and shall have power to acquire the present railway from Kingston to Porus and from Spanish Town to Ewarton, together

with such extensions of the same to Montego Bay and Port Antonio respectively as may be constructed under the said agreement, and shall be entitled to hold land, and to run trains and locomotive engines on the said railway, and generally to engage in carrying goods and passengers as common carriers, and to do all things necessary for or incident to the conduct of such a business.

Power to issue first and second mortgage bonds, and stock of the company.

5. The company shall have power, on its acquiring the present railway, to execute first mortgage bonds to the extent of one million five hundred thousand pounds, at the times and in the manner provided by the said agreement, and second mortgage bonds to the extent of eight hundred thousand pounds. The said bonds shall be secured in manner herein-after stated. The company shall also have power to issue stock of the company subject to the provisions herein-after contained.

Promoters entitled to 100,000*l.* second mortgage bonds and the like amount of stock in the company.

6. The promoters shall, in return for the one hundred thousand pounds lodged by them to the credit of the company as aforesaid, be entitled to one hundred thousand pounds second mortgage bonds, and a like amount of stock of the company.

Each promoter's interest therein.

The respective promoters shall be deemed to be individually interested in the said bonds and stock in accordance with any agreement that may be made by the promoters among themselves, or, in the absence of any such agreement, in proportion to the sum subscribed by each to make up the said sum of one hundred thousand pounds; provided that as between themselves and the Government of Jamaica they shall be deemed to be jointly interested in such second mortgage bonds.

Acquisition by Company of present Railway.

When, how, and subject to what terms and provisions, the present railway is to be transferred to the company.

7. On the company releasing to the Colonial Secretary, on the part of the Government of Jamaica, its interest in the sum of one hundred thousand pounds sterling aforesaid, and allotting to the Colonial Secretary seven hundred thousand pounds second mortgage bonds, and on the promoters assigning to the Colonial Secretary the one hundred thousand pounds bonds allotted to them, to be held by him as security in accordance with the said agreement, and causing the said assignment and transfer to be registered in the register of second mortgage bonds, the Colonial Secretary with the sanction of the Governor shall convey and transfer to the company the present railway, together with all rolling stock thereon or used therewith, and all stations, sheds, workshops, engine-houses, tools, stores, and other property belonging to the same, to hold to them and their successors absolutely, subject only to the contracts of the Government mentioned or indicated in Article 50 of the said agreement:

Provided that the water supplies of May Pen and Ewarton shall be vested in the company subject to the right of the Government, and the parochial boards of Clarendon and St. Catherine respectively, on behalf of the inhabitants of those places, to have all water after supplying the wants of the company:

And provided that the Government shall continue in occupation of those portions of the buildings and premises in the Kingston Station which are now occupied by the Public Works Store Department for such period, not exceeding twelve months from the date of the transfer of the railway to the company, as may be necessary for the acquisition and preparation of new premises and the removal of the stores thereto.

Transfer of employés on the railway.

8. On the transfer of the railway from the Government to the company, all persons then employed by the Government on the said railway, and in the offices and stations pertaining thereto, except the manager thereof, shall be deemed to have been engaged by, and to have accepted employment under, the company in the same capacities and at the same salaries respectively. In all other respects the conditions of their respective employments shall be such as would be inferred in law in cases where no special contract had been entered into, any previous special agreement with the Government or any rule of the Government railway to the contrary notwithstanding.

Transfer of apprentices.

9. On the transfer of the railway from the Government to the company, all the apprentices then under indenture to the principal officer of the Government railway workshop shall thereupon and thereafter be deemed to be under indenture to the principal officer of the Jamaica Railway Company's workshop, and in reading and interpreting the said indentures respectively, the name and title of the latter officer shall be substituted for those of the former as if the said indentures had been originally made with and executed by him.

Construction of Extensions.

Power to make two extensions of railway, one to Port

10. It shall be lawful for the promoters to make and maintain two railways, with all proper stations, sidings, approaches, works, and conveniences connected therewith, the one from some point near Bog Walk Station on the present railway northwards to the

sea and then easterly to Port Antonio, and the other from May Pen or Porus on the present railway, or some point between those two places, through the interior of the Island to Montego Bay, such railways to be in accordance with plans, sections, and drawings to be deposited as herein-after provided; and for the purpose aforesaid it shall be lawful for the promoters to enter upon, take, and use such lands as may be required for the purpose: Antonio and the other to Montego Bay.

Provided that, subject to the provisions of sections 20 and 23, the promoters shall make to the owners and occupiers of and all other parties interested in any lands taken and used for the purposes aforesaid, or injuriously affected by the construction of the railway, full compensation for the value of the lands so taken or used, and for all damage sustained by such owners, occupiers, and other parties by reason of the exercise, as regards such lands, of the powers by this law vested in the promoters; and except where otherwise provided, the amount of such compensation shall be ascertained and determined in the manner provided by the Lands Clauses Law, 1872, for determining questions of compensation with regard to lands purchased or taken under the provisions thereof, and for the purposes aforesaid the said Lands Clauses Law, with the exception of sections 10, 11, 15, 16, 84, 88, 105, and 106, shall be deemed to be incorporated with and to form part of this law, except where the provisions of that law are inconsistent with this law.

11. As a section of not less than twelve-and-a-half miles shall be completed within the meaning of the said agreement, and paid for pursuant to the terms of Article 17 of the said agreement as explained by this law, it shall be lawful for the Governor, by notice in the Jamaica Gazette, to declare that the same has become vested in the company; and such notice shall, without any conveyance or assignment, operate to vest the said section, and the inheritance thereof, and the equipment provided for the same, absolutely in the company, its successors and assigns, subject only to the charge upon the same created under this law in favour of the first and second mortgage bondholders. Vesting of sections of 12½ miles in the Company as they are completed.

12. In the construction of the said Lands Clauses Law, 1872, as incorporated with this law as aforesaid, the following words and expressions shall, except where the context requires a different construction, have the meanings hereby assigned to them respectively; (that is to say,)— Construction of words in the Lands Clauses Law, 1872.

"The promoters" shall, in relation to any portion of the extension until the same has been acquired by the company under the provisions of this law, mean the promoters as defined by this law and shall, in relation to any portion of the railway after the same has been acquired by the company as aforesaid, mean the company. The promoters.

The "undertaking" and "the works" shall include the laying out, constructing, making, altering, and maintaining the extension and the works or undertaking by this law authorised to be executed, and also the maintenance of the railway in good working order, and shall include the widening, draining, ballasting, improvement, and addition of stations and new sidings, as may be necessary from time to time on the railway, and also the supplying the railway with water. Undertaking works.

"The railway" shall include both the present railway and the extension. Railway.

13. With a view to the construction of the extensions it shall be lawful for the Director of Public Works from time to time, by writing under his hand, to license and authorise any person or persons to enter on lands and make surveys, such license and authority shall authorise the person named therein to enter on lands with such assistants as he may deem necessary, and to do all things thereon necessary for making a survey of a route for the railway, subject only to the limitations and conditions that apply to the Director of Public Works when making a survey under the powers conferred by the Main Road Law, 1879, Amendment Law, 1887. Authority to enter on lands and make surveys.

14. As soon as the promoters have determined on the route, or any part thereof, to be taken by the said extensions, or either of them, they shall cause plans, sections, and drawings of the same to be prepared on a scale not smaller than five chains to the inch horizontally, and fifty feet to the inch vertically, and shall deposit the same at the office of the Director of Public Works; and if on examination the Director of Public Works shall find that the same are in accordance with the said agreement he shall sign the same in token of his approval, and the same shall thereupon remain in the office of the Director of Public Works, and shall be open to public inspection. Preparation, approval, and custody of plans, sections, and drawings.

15. It shall be lawful for the promoters at any time, with the approval of the Director of Public Works, to alter the said plans, sections, and drawings, or to substitute others for them, and the altered or substituted plans, sections, and drawings shall, if approved and signed by the Director of Public Works as aforesaid, have the same force and effect as the original. Alteration of plans, sections, and drawings.

Power to lay rails and run trains over certain bridges.

16. It shall be lawful for the promoters to lay and maintain the rails for the said railway and to run trains over the bridges which may be built by the Government across the Pencar, Dry, White, Buff Bay, Spanish, Swift and Rio Grande Rivers, in the parishes of Saint Mary and Portland, in such manner as shall be approved by the Director of Public Works, and so that the upper surface of the rails be on a level with the roadway.

May Pen Bridge.

17. The company shall have the right to keep and maintain their rails and to run their trains over the bridge crossing the Rio Minho at May Pen, in the parish of Clarendon, in the same way as has been the practice heretofore in the case of the Government railway; provided that the Government will not be answerable to the company in case the said bridge should be destroyed, broken, or carried away. The said bridge shall be maintained and repaired at the joint expense of the Government and the company.

Bridge over the Wag Water River.

18. It shall be lawful for the Government, should they so think fit, to make use of the bridge which may be built by the promoters over the Wag Water River near Annotto Bay, in the parish of Saint Mary, for the purposes of the main road. The cost of flooring and adapting the bridge for that purpose shall in such case be borne by the Government. Persons using such bridge as part of the main road shall do so at their own risk, and shall have no claim for compensation in case of injury or damage sustained by them through any accident which may occur thereon.

Regulations to prevent accidents at the bridges.

19. In the case of the bridges in the three preceding sections mentioned, the following provisions shall apply:—

1. Gates shall be erected and maintained at each end of each of the said bridges, whereby access thereto shall at all times be cut off from either the road or the railway, but never from both:
2. The promoters shall provide gatekeepers who shall have charge of the said gates, and shall open and close them as may be required:
3. The gates shall be closed across the railway at all times except during the passage of a train across the bridge, and for ten minutes previous to the arrival of any train at the bridge:
4. The speed of every train for one mile before entering on the bridge shall not exceed ten miles an hour.

Acquisition of tracks, &c., for the promoters.

20. The Director of Public Works, or some other person appointed by the Governor in that behalf, shall, on behalf and in the name of the promoters, acquire for the promoter such lands, not less in width than thirty feet in excess of what is actually required for any cutting or embankment, as may be required for laying the track of, and building the stations, sidings, and workshops necessary for the said railway outside the limits of the city of Kingston and the towns of Montego Bay and Port Antonio, and the cost of such lands and of acquiring the same shall be paid on the warrant of the Governor out of the general revenues of the Island.

Certificate as to lands being required, when to be given—its effect.

21. The certificate of the Director of Public Works that any land is required for the purposes of the railway shall be *primâ facie* evidence that such land is so required within the meaning of this law: Provided that such certificate shall not be given except under the circumstances following (that is to say):—

(*a.*) When such land is required for the permanent works of the railway, or for diversions of roads, streams, or water-courses rendered necessary thereby:

(*b.*) When such land is required for the purpose of making and providing stations or additional stations, yards, wharves, and places for the accommodation of passengers, and for receiving, depositing, and loading or unloading goods or cattle to be conveyed upon the railway, and for the erection of weighing-machines, toll-houses, offices, warehouses, and other buildings and conveniences; and for the purpose of constructing dams, tanks, reservoirs, conduits, and other works for intercepting, collecting, storing, and conveying water to and for the use of the railway:

(*c.*) When such land is required for the purpose of making convenient roads or ways to the railway, or any other purpose which may be convenient for the formation or use of the railway.

If it shall be made to appear that any certificate as aforesaid is given for any purpose other than as aforesaid, such certificate shall be void.

Devolution of powers and duties of promoters on the company.

22. When by this law any power is vested in, or duty cast upon, the promoters to make or do anything, the same power or duty shall be deemed to be vested in, or cast upon, the company in relation to so much of the railway as may have become vested in the company.

23. Subject to the provisions and restrictions in this law it shall be lawful for the promoters, for the purpose of the undertaking, to execute any of the following works; (that is to say,)— Special powers granted to the promoters.

(1.) They may make or construct, in, upon, across, under, or over any lands, or any streets, hills, valleys, roads, railroads, or tramroads, rivers, canals, brooks, streams, or other waters within the lands described in the said plans, or any correction thereof, such temporary or permanent inclined planes, tunnels, cuttings, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, and fences, as they think proper;

(2.) They may erect and construct such houses, warehouses, offices, and other buildings, yards, stations, wharves, engines, machinery, apparatus, and other works and conveniences as they think proper;

(3.) They may alter, temporarily or permanently, the course of any river, stream, gully, street, or public road, and may make drains or conduits into, through, or under lands adjoining the railway or any public road, for the purpose of conveying water away from or to the railway; and they may dig and carry away gravel, stone, sand, earth, or other materials required for the works, out of any lands, not being land on which is any house, yard, garden, provision ground, planted walk, or avenue to a house; and generally they may do all things necessary for making, maintaining, altering, repairing, or using the said railways;

(4.) They may, at any time before the completion of any railway, enter upon any lands, not being more than two hundred yards distant from the centre of the railway, and not being a garden, orchard, or plantation attached or belonging to a house, or a park, planted walk, avenue, or ground ornamentally planted, and not being nearer to the mansion-house of the owner of any such lands than five hundred yards therefrom, and may occupy the said lands so long as may be necessary for the construction or repair of that portion of the railway, or of the accommodation works connected therewith herein-after mentioned, and to use the same for any of the following purposes; (that is to say,)—

(*a.*) For the purpose of taking earth or soil by side cuttings therefrom;

(*b.*) For the purpose of depositing spoil thereon;

(*c.*) For the purpose of obtaining materials therefrom for the construction or repair of the railway or such accommodation works as aforesaid; or

(*d.*) For the purpose of making roads thereon to or from or by the side of the railway.

(5.) They may take water from any river, stream, watercourse, or lake, whenever they may deem it necessary for the purpose of the railway; and for the purpose of conducting the water into any pipe, conduit, or channel, to be laid down or constructed by them, they may erect any dam or any works in the bed of any such river, stream, watercourse, or lake, as they may deem necessary for the purpose.

(6.) They may from time to time alter, repair, or discontinue the before-mentioned works or any of them, and substitute others in their stead; and

(7.) They may do all other acts necessary for making, maintaining, altering, or repairing, and using the railway:

Provided always, that in the exercise of the powers by this law granted, the promoters shall do as little damage as can be, and shall, subject to the provisions of section 20, make full satisfaction, to be ascertained and settled either by agreement or in the manner provided by the Lands Clauses Law, 1872, to all parties interested, for all damage by them sustained by reason of the exercise of such powers:

And in exercise of the powers aforesaid it shall be lawful for the promoters to deposit, and also to manufacture and work upon such lands, materials of every kind used in constructing the railway, and also to dig and take from and out of any such lands any clay, stone, gravel, sand, or other things that may be found therein useful or proper for constructing the railway, or any such roads as aforesaid, and for the purposes aforesaid to erect thereon workshops, sheds, and other buildings of a temporary nature:

Provided also that no stone or slate quarry, brickfield, or other like place, which at the time of the passing of this law shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same, shall be taken or used by the promoters, either wholly or in part, for any of the purposes lastly herein-before mentioned:

Provided that where lands out of which materials are taken, or in which drains are cut, are Savanna or ruinate or waste land, or uncultivated land, or the bed of a river or gully, nothing shall be paid by way of compensation or as the price of materials:

And provided that when, under the powers conferred by this section, they take water from any river, stream, watercourse, or lake, the mere fact of the diminution of water in any such river, stream, watercourse or lake as aforesaid, shall not of itself entitle the parties interested in such water to compensation without proof by them that such diminution has caused or is likely to cause actual and appreciable pecuniary damage to such parties:

Provided always, that nothing in this law contained shall exempt the promoters from an action for nuisance or other injury (if any) done in the exercise of the powers hereinbefore given to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid.

As to railway crossing roads, &c. on a level.

24. Where the said railway shall cross any road, street, way, lane, or other public passage or place, on a level the upper surface of the rails of such railway, for the purpose of guiding the wheels of the carriages thereupon, shall not rise above or sink below the level of such road, street, way, lane, or other public passage or place more than one inch.

Deviations from plans, sections, and drawings restricted.

25. In making the railway it shall not be lawful for the promoters to deviate from the levels of the railway as given in the plans, sections, and drawings deposited as aforesaid, or any alteration thereof or substitution therefor approved as aforesaid, referred to as aforesaid, and as marked on the same, to any extent exceeding in any place eight feet, without the previous consent in writing of the owners and occupiers of the land in which such deviation is intended to be made; or in case any main or parochial road shall be affected by such deviation then the same shall not be made without the like consent of the Director of Public Works.

Arches and tunnels indicated on plans.

26. Where in any place it is intended to carry the railway on an arch or arches or other viaduct, as marked on the plans, sections, or drawings aforesaid, the same shall be made accordingly; and where a tunnel is marked on the said plan or section as intended to be made at any place, the same shall be made accordingly, unless the owners, lessees, and occupiers of the land in which such tunnel is intended to be made shall consent that the same shall not be so made.

Deviations from gradients, curves, tunnels, &c. restricted.

27. It shall not be lawful for the promoters to deviate from or alter the gradients, curves, tunnels, or other engineering works described in the said plan or section, except within the following limits, and under the following conditions; (that is to say,)

Subject to the above provisions in regard to altering levels, it shall be lawful for the promoters to diminish the inclination or gradients of the railway to any extent, and to increase the said inclination or gradients as follows, (that is to say,) in gradients of an inclination not exceeding one in a hundred, to any extent not exceeding ten feet per mile, or to any further extent which shall be certified by the Director of Public Works to be consistent with the public safety and not prejudicial to the public interest, and in gradients of or exceeding the inclination of one in a hundred, to any extent not exceeding three feet per mile, or to any further extent which shall be so certified by the Director of Public Works as aforesaid; provided always that no gradient shall exceed the inclination of one in thirty:

It shall be lawful for the promoters to diminish the radius of any curve described in the said plan to any extent which shall leave a radius of not less than three hundred and thirty feet:

It shall be lawful for the promoters to make a tunnel, not marked on the said plan or section, instead of a cutting, or a viaduct instead of a solid embankment, if authorised by such certificate as aforesaid from the Director of Public Works.

Deviations from the line indicated on plans, &c.

28. It shall be lawful for the promoters to deviate from the line delineated on the plans, drawings, and sections, so deposited as aforesaid, to a distance of one hundred yards from the said line; provided that no further deviation shall be made without the consent of the Director of Public Works.

Obligation to make and maintain fences with accommodation works.

29. The promoters shall cause fences to be erected and maintained on each side of the railway, with such accommodation bridges, level crossings, and other works, as may be fixed by agreement with the owners of lands at the time when the amount of compensation to which they may be entitled is being settled under the Lands Clauses Law, 1872.

As to construction of additional accommodation works subsequently required.

Thereafter, if at any time the owner of any land adjoining the railway shall require any additional bridge, level crossing, or other accommodation work, beyond those fixed by agreement as aforesaid, the promoters or the company, as the case may be, shall, on his entering into good and sufficient agreement to pay the entire cost of such work and its maintenance, construct such work, or permit it to be constructed according to

designs and specifications to be approved by the engineer of the promoters or the company, and to his satisfaction; provided always, that it shall have been certified by the Director of Public Works that such bridge, level crossing, or other accommodation work will not tend to impede or interfere with the proper working of the railway, or to endanger the safety of the trains.

Obstructing or interfering with promoters in setting out line of railway.

30. If any person wilfully obstruct any person acting under the authority of the promoters in the lawful exercise of their powers in setting out the line of the railway, or pull up or remove any poles or stakes driven into the ground for the purpose of so setting out the line of the railway, or deface or destroy any marks made for the same purpose, he shall on conviction thereof in a summary way before two justices, forfeit a sum not exceeding five pounds for every such offence.

Course to be adopted when the line of railway crosses a public road.

31. If the line of the railway cross any main or parochial road, then either such road shall be carried over the railway, or the railway shall be carried over such road, by means of a bridge, of the height and width and with the ascent or descent by this Law in that behalf provided; and such bridge, with the immediate approaches, and all other necessary works connected therewith, shall be executed by the promoters, and at all times thereafter maintained by and at the expense of the company; provided always, that with the consent of the Director of Public Works, it shall be lawful for the promoters or the company to carry the railway across any such road as aforesaid on the level.

As to gates when the railway crosses a public road, and the duty of keeping them open or closed according to circumstances.

32. If the railway cross any road as aforesaid on a level, the promoters shall erect, and at all times maintain, good and sufficient gates and turnstyles for foot passengers across such road on each side of the railway, where the same shall communicate therewith, and a gatekeeper's house, and shall employ proper persons to open and shut such gates; and such gates shall be kept constantly closed across such road on both sides of the railway except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross such railway; and the person entrusted with the care of such gates shall cause the same to be closed as soon as such horses, cattle, carts, or carriages shall have passed through the same, under a penalty of forty shillings for every default therein:

Provided always, that it shall be lawful for the Director of Public Works, in any case in which he is satisfied that it will be equally conducive to the public safety that the gates on any level crossing over any such road should be kept open to the road, at the instance of the company to grant permission that such gates shall be so kept open instead of closed across the road, and in such case such gates shall be kept constantly open to the road except when engines or carriages passing along the railway shall have occasion to cross such road, in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

As to laying rails along the streets of Montego Bay and Port Antonio.

33. It shall be lawful for the Governor in Privy Council to authorise the promoters or the company to lay their rails along the streets of Montego Bay and Port Antonio, and to run locomotive engines and trains over the same so as to connect their station with the seashore; provided always, that in giving such authority the Governor in Privy Council may lay down such rules for the use of the said streets by the company as the Governor in Privy Council may see fit, and may fix a penalty or penalties not exceeding fifty pounds to be paid by the company in case of an infraction of the said rules, or any of them.

Regulations as to bridges over roads.

34. Every bridge to be erected for the purpose of carrying the railway over any road shall be built in conformity with the following regulations; (that is to say,)

The width of the arch shall be such as to leave thereunder a clear space of not less than twenty feet if over a public carriage road, and of twelve feet if over a private carriage road, and of not less than eight feet if over a bridle road:

The clear height of the arch from the surface of the road shall not be less than twelve feet for a space of ten feet if the arch be over a public carriage road, and the clear height at the springing of the arch shall not be less than ten feet:

The descent made in the road in order to carry the same under the bridge shall not be more than one foot in twenty feet if over a public carriage road, and one foot in sixteen feet if over a private carriage road; provided always, that if the inclination of the existing road be steeper than above mentioned, it shall be lawful to adopt a gradient of equal steepness in the new road.

Regulations as to bridges under roads.

35. Every bridge erected for carrying any road over the railway shall be built in conformity with the following regulations; (that is to say,)

There shall be a good and sufficient fence on each side of the bridge of not less height than four feet, and on each side of the immediate approaches of such bridge of not less than three feet:

The road over the bridge shall have a clear space between the fences thereof of twenty feet if a public carriage road, and twelve feet if a private road:

The ascent shall not be more than one in twenty feet if the road be a public carriage road, not being a tramroad or railroad, or if the same be a tramroad or railroad the ascent shall not be greater than as it existed at the passing of this law; provided always, that if the inclination of the existing road be steeper than above mentioned, it shall be lawful to adopt a gradient of equal steepness in the new road.

Cases of exceptional difficulty in interfering with existing roads.

36. If, in the exercise of the powers by this law granted, it be found necessary to cross, cut through, raise, sink, or use any part of any road, whether carriage road, horse road, tramroad, or railway, either public or private, so as to render it impossible for or dangerous or extraordinarily inconvenient to passengers or carriages, or to the persons entitled to the use thereof, the promoters shall, before the commencement of any such operations, cause a sufficient road to be made instead of the road to be interfered with, and shall at their own expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Penalty for interrupting existing road before making a substituted road.

37. If the promoters do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, they shall forfeit twenty pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted; and every such penalty shall be recoverable with costs, by action of debt in the Supreme Court, by the Director of Public Works in the case of any main road, the parochial board of the parish in the case of any parochial road, and by the owner of any private road.

Penalty on omitting to close accommodation gates after using them.

38. If any person omit to shut and fasten any gate set up at either side of the railway for the accommodation of the owners or occupiers of the adjoining lands, as soon as he, and the carriage, cattle or other animals, under his care, have passed through the same, he shall forfeit for every such offence any sum not exceeding forty shillings.

Power to use steam engines, &c. on railway, and to carry passengers and goods for hire.

39. It shall be lawful for the promoters to use and employ on the railway locomotive steam engines or other moving power, and carriages and waggons to be drawn or propelled thereby, and it shall be lawful for the company to carry and convey upon the railway all such passengers and goods as shall be offered to them for that purpose, and to make such reasonable charges in respect thereof as they may from time to time determine upon, not exceeding the tolls by the said agreement authorised to be taken by them.

Company liable and protected as common carriers.

40. Nothing in this law contained shall extend to charge or make liable the company further or in any other case than where, according to the laws of this Island, stage coach proprietors and common carriers would be liable, nor shall extend in any degree to deprive the company of any protection or privilege which common carriers or stage coach proprietors may be entitled to; but, on the contrary, the company shall at all times be entitled to the benefit of every such protection and privilege.

Measuring the railway line and maintaining posts at each quarter of a mile.

41. The promoters shall cause the length of the railway to be measured, and milestones, posts, or other conspicuous objects, to be set up and maintained along the whole line thereof, at the distance of one quarter of a mile from each other, with numbers or marks inscribed thereon denoting such distances.

Mortgage Bonds generally.

Mortgage bonds, for what sums.

42. All mortgage bonds of the company (whether first or second mortgage) issued under this law shall be distinguished by a number, and shall be for one hundred pounds or some multiple of one hundred pounds.

Registration and transfer thereof.

Books shall be opened and kept by the company applicable respectively to each such class of bonds.

The book aforesaid applicable to first mortgage bonds shall be styled the "Register of First Mortgage Bonds," and shall be kept by an agent of the company appointed for the purpose, at such place in the city of London as shall be from time to time approved by the trustees for the first mortgage bondholders.

The book applicable to second mortgage bondholders shall be styled the "Register of Second Mortgage Bonds," and shall be kept at such place as may from time to time be appointed by the Governor.

In the appropriate register aforesaid shall be recorded, at the time of issuing any bond, the number and date of such bond, and the sum secured thereby, and the name of the allottee thereof, with his proper address and addition, and whether such bond is made payable to the bearer thereof or to the registered holder only.

Every bond shall, at the option of the allottee thereof, be made payable either to the bearer thereof or to the registered holder. A bond payable to bearer shall be

transferable by delivery. A bond payable to the registered holder shall pass only by deed of transfer duly registered in the register applicable to a bond of its class.

It shall be lawful at any time for the holder of any bond to bearer, on production of such bond, to have such bond made payable to the registered holder thereof, and to have himself or his nominee registered as the holder thereof, and on such registration taking place, and an endorsement to that effect being made on the bond, the bond shall become a bond payable to the registered holder, and liable to all the incidents of such a bond.

It shall also be lawful for the registered holder of a bond payable to the registered holder to transfer the bond to bearer, and on such transfer being registered as aforesaid, and an endorsement to that effect being made on the bond, the bond shall become a bond to bearer and liable to all the incidents of such a bond.

Coupons for interest.

43. Coupons for the interest payable on any bond shall be attached to such bond.

Payment of any interest due may be made by the company to any person presenting the coupon, whether the bond to which it belongs be payable to bearer or to the registered holder, and payment so made shall effectually discharge and exonerate the company from such interest. It shall be lawful nevertheless for the company to require production of the bond, and in case the same is payable to the registered holder, evidence as to the title of the person producing the same.

Provisions as to the transfer of bonds payable to registered holders.

44. The provisions of this law herein-after contained relative to the transfer and transmission of stock shall apply mutatis mutandis to the transfer and transmission of mortgage bonds payable to the registered holders.

Payment of bonds,—how and from what source to be made.

45. The respective obligees of such bonds as aforesaid shall, subject to the provisions herein-after contained with reference to the redemption of bonds by periodical drawings or otherwise, be entitled to be paid proportionately according to the amount of the monies secured thereby out of the tolls, earnings, or other property or effects of the company, the respective sums in such bonds mentioned and thereby intended to be secured, without any preference one above another by reason of priority of date of any such bond or otherwise howsoever; provided that nothing herein contained shall entitle a second mortgage bondholder to receive anything until provision has been made for payment in full of all sums due and payable on all first mortgage bonds.

Payment of interest.

46. The interest due upon any mortgage bond shall be paid at the periods and places appointed in such bond, and, if no period be appointed, half-yearly, to the several parties entitled thereto, and in preference to any dividends payable to the stockholders of the company.

First Mortgage Bonds.

Execution and delivery of first mortgage bonds in trust, and their issue.

47. It shall be lawful for the company to execute its first mortgage bonds to the amount herein-before provided, and to deliver them to such persons as may be agreed upon between the Governor and the promoters, upon trust to hold the same until issue, and to issue the same from time to time in accordance with the said provisions of the said agreement, and not otherwise; and no such bond shall be valid to bind the company unless it bears the certificate of the trustees, or the major part of them, that it has been issued by them in accordance with the terms of the said agreement.

Application of money borrowed on first mortgage bonds.

Priority of charge of such bonds against the company and their property.

48. All money borrowed or to be borrowed by the company on first mortgage bonds, under the provisions of this law, shall be devoted to the purposes set forth in the said agreement, and not otherwise; and such bonds shall have priority against the company, and the property herein-after mentioned from time to time of the company, over all other claims on account of any debts incurred or engagements entered into by the company, excepting only claims of the Attorney-General under section 148 of this law; provided always, that nothing herein contained shall affect any claim for land taken, used, or occupied by the company for the purposes of the company, or injuriously affected by the construction thereof, or by the exercise of any powers conferred on the company.

Means of effecting and enforcing lien.

49. In order more effectually to give effect to the lien or charge intended to be conferred by the preceding section, the company shall, as soon as three trustees shall have been appointed for the purpose by the allottees of the first issue of bonds, covenant with such trustees, for and on behalf of all the first mortgage bondholders, duly to pay the principal and interest secured by the bonds at the times appointed for payment thereof respectively, and also to pay to the said trustees at the end of five years from the date of the first issue of the said bonds, and at the end of every year thereafter such sums as by the said agreement the company is to pay for the purpose of the redemption of the said bonds, and further to use diligence to keep up the line and the works and the

rolling stock in good order and condition, so that continuous communication may be had along the whole line, and so that trains may be run with safety at the speed of fifteen miles an hour, or at such greater speed as under the traffic arrangements of the company is attained by their trains. And for properly securing the performance of the said covenants the company shall convey to the said trustees, as well the present railway as the contemplated extensions thereof, as and from the time that the same or any portion thereof shall be acquired by the company under the provisions of the said agreement, together with all rolling stock and other property thereon or used therewith, and all lands, bridges, viaducts, workshops, tools, appliances, and stores, and other property connected therewith or belonging thereto, in trust, until default shall be made by the company to the extent herein-after stated in observance of the covenants aforesaid or either of them, to allow the company to possess and enjoy the same, and with power to the trustees, on the company making default in observance of either of the covenants aforesaid (and such default as to the payment of monies covenanted to be paid continuing for a period exceeding one year, or such default as to keeping in good order and condition after the attention of the company has been called to same by the trustees, for a period exceeding three months), to call upon the Governor of Jamaica to assume and take possession of the railway and property assigned, and to work the same for the benefit of all concerned until the company shall be no longer in default; and with further power to the trustees, in case the Governor, being called upon as aforesaid, shall decline to interfere, themselves to assume and take possession as aforesaid. And on the Governor, at the request of the trustees as aforesaid, or on the trustees themselves, taking over and working the railway as aforesaid, the trustees shall, so long as the Government or the trustees remain in such possession, at least once in every year, by advertisement to be published in two London newspapers, convene a meeting of the bondholders in the city of London, for the purpose of considering and discussing the future prospects of the undertaking; and if at any such meeting duly convened after such advertisement as aforesaid, there be present, in person or by proxy, bondholders representing at least one-third of the whole of the bonds issued, and it be determined by a majority of those present, in person or by proxy (such majority representing not less than one-third of the bonds as aforesaid) to present a petition to the Supreme Court of Jamaica to wind up the company, the trustees shall present such petition accordingly.

Effect of covenants in deed of charge.

50. The covenants entered into and assignment made as aforesaid shall be deemed to be a compliance on the part of the company with the requirements of Article 20 of the said agreement.

Form of bonds.

51. The said first mortgage bonds shall be in such form as shall be agreeable with the provisions of this law.

Rights and duties of governor or trustees taking possession for default of the company.

52. In the event of the Governor at the request of the trustees for the bondholders, or of the said trustees, entering and taking possession of the railway and other mortgaged property, it shall be lawful for the officer or person appointed by the Governor for that purpose or for the trustees (as the case may be), by his or their superintendents, managers, receivers, or agents, to work the said railway, and conduct the business thereof, in as full and ample a manner as the company is by this or any other law authorised to do, and to make all necessary repairs and replacements, and to collect all tolls, freights, rents, income, issues, and profits, of the railway and every part thereof, and after deducting the expense of working the said railway and conducting the business thereof, and the cost of all repairs and replacements, all payments which may be made for rent, taxes, and assessments, as well as a just compensation for their own services, to apply the monies arising as aforesaid to the payment of the interest on the said first mortgage bonds, in the order in which such interest shall have become or shall, after such entry and taking possession as aforesaid, become due, rateably to the several persons holding the coupons evidencing the right to such interest, and next in payment of all monies agreed to be paid to the said trustees for the purpose of redemption of the said bonds; and after payment of all interest which shall have become due on the said first mortgage bonds, and all monies payable for the purpose of redemption as aforesaid, to apply any balance in payment of the interest due to the holders of the second mortgage bonds; provided that neither the Governor nor the said trustees entering and taking possession as aforesaid shall be entitled to retain such possession as against the company when the company is no longer in default to the first mortgage bondholders, or the trustees as aforesaid.

Petition by trustees to wind up the company.

53. It shall be lawful for the trustees for the bondholders in the cases mentioned in Article 20 of the said agreement, to petition the Supreme Court to wind up the company; and if it shall be made to appear to the said Court—

(*a.*) that the default mentioned in the said Article occurred and continued as therein mentioned;

(*b.*) that the trustees for the bondholders thereupon called upon the Governor to assume and take possession of the railway and property assigned, and that the Governor thereupon assumed and took possession accordingly, or that on the Governor declining to interfere the trustees assumed and took possession themselves; and

(*c.*) that at a meeting of the bondholders duly convened in the city of London, after advertisement published in two London newspapers, there were present bondholders representing one-third of the whole of the bonds issued, and that at such meeting it was determined by a majority of those present in person or by proxy (such majority representing not less than one-third of the bonds as aforesaid) to present a petition to wind up the company;

the Court shall make a decree accordingly.

Court to give effect to provisions of agreement and first mortgage bonds and conveyance in trust.

54. The Supreme Court, and every judge thereof, shall give full power and effect to any provision in the said agreement, and to any provision inserted in such first mortgage bonds as aforesaid, or in any conveyance in trust to secure the same made in pursuance of the said agreement, for enforcing the rights of the bondholders or their trustees, or of the Government of the Island, in the event of the default mentioned in the said agreement being made by the company in the observance of the covenants which under the said agreement are required to be made by the company with the bondholders.

Second Mortgage Bonds.

Payment of interest on second mortgage bonds.

55. The interest on the second mortgage bonds issued by the company under the provisions of this law, at the rate mentioned in the said agreement, shall be paid out of the profits of each half-year before any dividend is paid on the stock of the company; but if in any year ending on such day as may be agreed on between the Governor and the company, or if no such day is agreed on then on the 31st December, there are no profits available for the payment of the full amount of interest on the said bonds for such half-year, no part of the deficiency shall be made good out of the profits of any subsequent half-year, or out of any other funds of the company.

Second mortgage bonds a charge on the property of the company next after first mortgage bonds.

56. The second mortgage bonds, with the interest payable thereon as aforesaid, shall by force of this law be a charge on all the property of the company assigned to trustees for the first mortgage bondholders, as herein-before provided, to the same extent as, but second only to, the first mortgage bonds issued under the provisions of this law; but the holders of such second mortgage bonds shall not, as between themselves, be entitled to any preference or priority.

Action by holders of second mortgage bonds.

57. At the end of any year in which the full interest shall not have been paid to the second mortgage bondholders, it shall be lawful for any second mortgage bondholder, suing on behalf of himself and the other second mortgage bondholders, to bring an action in the Supreme Court against the company; and if in such action it be made to appear that, on a proper account being taken of the transactions and earnings of the company, a larger net profit was earned by the company, after paying all prior charges properly payable thereout, than was divided by the company among the second mortgage bondholders, the plaintiff shall be entitled to judgment against the company for the amount of the difference between the amount paid (if any) as interest for such half-year and the amount properly payable; provided that it shall not be lawful for the company to make any payment in satisfaction or part satisfaction of any such judgment that would in the year in which the same is made, or in any subsequent year, prevent the company from paying the full interest payable on the second mortgage bonds for that year.

As to the Stock of the Company.

As promoters.

58. The company shall from time to time allot to the promoters stock of the company, in pursuance of the terms of Article 17 of the said agreement, as sections of the extension are completed and added to the present railway.

Issue of new stock.

59. It shall be lawful for the company from time to time, with the consent of three fifths of the votes of the stockholders entitled to vote in that behalf at meetings of the company, present (personally or by proxy) at a meeting of the company specially convened for the purpose, to raise any sum or sums by the issue of new stock; on its being determined to issue such stock as aforesaid, the company may from time to time dispose of the same at such times, to such persons, on such terms and conditions, and in such manner, as the directors think advantageous to the company.

Stock is personalty.

60. The stock of the company shall be personal estate and transmissible as such, and shall not be of the nature of real estate.

Stockholders of the company.

61. Every person who, under the provisions of this law or of any law that may be passed in amendment of the same, shall become entitled to a share in the stock of the company, and whose name shall have been entered on the register of stockholders herein-after mentioned shall be deemed a stockholder of the company.

The register of stockholders.

62. The company shall keep a book to be called "The Register of Stockholders," and in such book shall be fairly and distinctly entered from time to time the names and additions of the several persons entitled to stock of the company, with the amount of the interest therein possessed by them respectively, and the surnames of the said stockholders shall be placed in alphabetical order; and such book shall be authenticated by the common seal of the company being affixed thereto; and such authentication shall take place at the first ordinary meeting, or at the next subsequent meeting of the company, and so from time to time at each ordinary meeting of the company.

Stockholders' address book.

63. In addition to the said "Register of Stockholders," the company shall provide a book, to be called the "Stockholders' Address Book," in which the secretary shall from time to time enter in alphabetical order the corporate names and places of business of the several stockholders of the company being corporations, and the surnames of the several other stockholders with their respective Christian names, places of abode, and descriptions, so far as the same shall be known to the company; and every stockholder, or any person duly authorised by him for the purpose, may at all convenient times peruse such books gratis, and may require a copy thereof or of any part thereof, and for every hundred words so required to be copied the company may demand a sum not exceeding sixpence.

Certificate of proprietorship of stock.

64. On demand of the holder of any portion of the stock of the company, the company shall cause a certificate of the proprietorship of such stock to be delivered to such stockholder; and such certificate shall have the common seal of the company affixed thereto; and such certificate shall specify the amount of stock of the company to which such stockholder is entitled; and the same may be according to the form in the Schedule B. to this law annexed, or to the like effect; and for such certificate the company may demand any sum not exceeding two shillings and sixpence.

Schedule, Form B.

Its effect as evidence in court.

65. The said certificate shall be admitted in all courts as *primâ facie* evidence of the title of such stockholder, his executors, administrators, successors, or assigns, to the amount of stock therein specified; nevertheless the want of such certificate shall not prevent the holder of any stock from disposing thereof.

Substituted certificate.

66. If any such certificate be worn out or damaged, then, upon the same being produced at some meeting of the directors, such directors may order the same to be cancelled; and thereupon another similar certificate shall be given to the party in whom the property of such certificate, and of the share therein mentioned, shall be at the time vested; or if such certificate be lost or destroyed, then, upon proof thereof to the satisfaction of the directors, a similar certificate shall be given to the party entitled to the certificate so lost or destroyed; and in either case a due entry of the substituted certificate shall be made by the secretary in the register of shareholders; and for every such certificate so given or exchanged the company may demand a sum not exceeding two shillings and sixpence.

Transfer of stock.

67. Subject to the regulations herein contained, every stockholder may sell and transfer all or any part of his interest in the stock of the company; and every such transfer shall be by deed duly stamped, and such deed may be according to the form in the Schedule C. to this law annexed, or to the like effect.

Schedule, Form C.

Transfer to be stamped.

68. No transfer of any stock or bond shall be registered in any of the registers of transfers of the company unless the deed of transfer is duly stamped in accordance with the laws of this Island; and if the secretary of the company register or allow to be registered any transfer as aforesaid, without the deed being duly stamped as aforesaid, he shall for every such offence forfeit and pay a sum not less than ten and not exceeding fifty pounds.

Register of transfer, certificate thereon, effect of omission to register.

69. The said deed of transfer (when duly executed) shall be delivered to the secretary, and be kept by him; and the secretary shall enter a memorial thereof in a book to be called the "Register of Transfers," and shall endorse such entry on the deed of transfer, and shall, on demand, deliver a new certificate to the purchaser; and for every such entry together with such endorsement and certificate, the company may demand any sum not exceeding two shillings and sixpence; and on the request of the purchaser of any stock an endorsement of such transfer shall be made on the certificate of such stock, instead of a new certificate being granted; and such endorsement, being signed by the secretary, shall be considered in every respect the same as a new certificate; and until

such transfer has been so delivered to the secretary as aforesaid, the vendor of the stock shall continue liable as a stockholder of the company, and the purchaser of the stock shall not be entitled to receive any share of the profits of the undertaking, or to vote in respect of such stock.

Temporary closing of transfer books.

70. It shall be lawful for the directors to close the register of transfers for a period not exceeding fourteen days previous to each ordinary meeting, and they may fix a day for the closing of the same, of which seven days' notice shall be given by advertisement in some newspaper as after mentioned; and any transfer made during the time when the transfer books are so closed shall, as between the company and the party claiming under the same, but not otherwise, be considered as made subsequently to such ordinary meeting.

Transmission of stock by death or otherwise than by deed of transfer.

71. If the interest in any stock shall have become transmitted in consequence of the death or bankruptcy or insolvency of any stockholder, or in consequence of the marriage of a female stockholder, or by any other lawful means than by a transfer according to the provisions of this law, such transmission shall be authenticated by a declaration in writing as herein-after mentioned, or in such other manner as the directors shall require; and every such declaration shall state the manner in which and the party to whom such stock shall have been so transmitted, and shall be made and signed by some credible person before a justice of the peace or notary public; and such declaration shall be left with the secretary, and thereupon he shall enter the name of the person entitled under such transmission in the register of stockholders; and for every such entry the company may demand any sum not exceeding five shillings; and until such transmission have been so authenticated no person claiming by virtue of such transmission shall be entitled to receive any share of the profits of the undertaking, or to vote in respect of any such stock as the holder thereof.

What evidence of transmission by marriage, will, or letter of administration, required to be produced before registration.

72. If such transmission be by virtue of the marriage of a female stockholder, the said declaration shall contain a copy of the register of such marriage, or other particulars of the celebration thereof, and shall declare the identity of the wife with the holder of such stock; and if such transmission have taken place by virtue of any testamentary instrument, or by intestacy, the probate of the will or the letters of administration, or an official extract therefrom, shall, together with such declaration, be produced to the secretary; and upon such production in either of the cases aforesaid the secretary shall make an entry of the declaration in the said register of transfers.

Company not bound by any trusts, either with or without notice.

73. The company shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any of its stock may be subject; and the receipt of the party in whose name any such stock shall stand in the books of the company, or, if it stands in the names of more parties than one, the receipt of one of the parties named in the register of stockholders, shall from time to time be a sufficient discharge to the company for any dividend or other sum of money payable in respect of such stock, notwithstanding any trusts to which such stock may then be subject, and whether or not the company have had notice of such trust; and the company shall not be bound to see to the application of the money paid upon such receipt.

Restriction on dividends on the stock of the company.

74. It shall in no case be lawful for the company to divide profits at a rate exceeding ten per cent. per annum on the stock of the company, unless for every one per cent. per annum so divided in excess of ten per cent. a reduction has been made in the fares and tolls chargeable on the railway equal to five per cent. on the fares and tolls previously chargeable.

Management of Affairs of Company by Directors.

Directors of Company—their duty and powers, and how controlled.

75. The management and superintendence of the affairs of the company shall be vested in the directors, who may lawfully exercise all the powers of the company, except as to such matters as are directed by this law to be transacted by a general meeting of the company, but all the powers so to be exercised shall be exercised in accordance with and subject to the provisions of this law, and the exercise of all such powers shall be subject also to the control and regulation of any general meeting specially convened for the purpose, but not so as to render invalid any act done by the directors prior to any resolution passed by such general meeting.

What powers of the company must be exercised in general meeting.

76. Except as otherwise provided by this law, the following powers of the company (that is to say), the choice and removal of the directors, except as herein-after mentioned, the choice of auditors, the determination as to the remuneration of the directors, auditors, treasurer and secretary, the determination as to the raising of any sum or sums of money by the issue of new stock, and the declaration of dividends, shall be exercised only at a general meeting of the company.

Meetings of directors.

77. The directors shall hold meetings at such times as they shall appoint for the purpose, and they may meet and adjourn as they think proper, from time to time, and from place to place; and at any time any two of the directors may require the secretary to call a meeting of the directors, and in order to constitute a meeting of directors there shall be present at the least three directors; and all questions at any such meeting shall, except as may be herein provided, be determined by the majority of votes of the directors present, and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as one of the directors.

Chairman and vice-chairman of directors.

78. At the first meeting of directors held after the passing of this law, and at the first meeting of the directors held after each annual appointment of directors, the directors present at such meeting shall choose one of the directors to act as chairman of the directors for the year following such choice, and shall also, if they think fit, choose another director to act as deputy-chairman for the same period; and if the chairman or deputy-chairman die or resign, or cease to be a director, or otherwise become disqualified to act, the directors present at the meeting next after the occurrence of such vacancy shall choose some other of the directors to fill such vacancy; and every such chairman or deputy-chairman so elected as last aforesaid shall continue in office so long only as the person in whose place he may be so elected would have been entitled to continue if such death, resignation, removal, or disqualification had not happened.

Choice of chairman of the meeting when chairman and vice-chairman absent.

79. If at any meeting of the directors neither the chairman nor deputy chairman be present, the directors present shall choose some one of their number to be chairman of such meeting.

Select committees of directors.

80. It shall be lawful for the directors to appoint one or more committees, consisting of such number of directors as they may think fit, and they may grant to such committees respectively power, on behalf of the company, to do any acts relating to the affairs of the company which the directors could lawfully do, and which they shall from time to time think proper to entrust to them.

Meetings of committee.

81. The said committees may meet from time to time, and may adjourn from place to place, as they think proper for carrying into effect the purposes of their appointment; and no such committee shall exercise the powers entrusted to them except at a meeting at which there shall be present such quorum as may be prescribed by the directors appointing such committee; and at all meetings of the committees one of the members present shall be appointed chairman; and all questions at any meeting of the committee shall be determined by a majority of votes of the members present, and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as a member of the committee.

Limit of power in making contracts and fixing salaries.

82. No contract for goods or stores in excess of one hundred pounds shall be binding on the company, and no salary in excess of that amount shall be granted, except with the concurrence of the Government director, appointed as herein-after provided; provided that in the event of the Government director refusing his concurrence in any such proposal, the company shall have the right of appeal to the Governor in Privy Council.

Right of Government director to inspect books, vouchers, &c.

The Government director shall have the right to see and examine all books, papers, accounts, vouchers, and invoices of the company, and any clerk or other officer of the company preventing or attempting to prevent the said Government director from seeing or examining the same or any of them shall be liable to a penalty of fifty pounds.

Provisions as to contracts by the directors or committees.

83. The power which may be granted to any such committee to make contracts, as well as the power of the directors to make contracts, on behalf of the company, may lawfully, subject to the provisions of the preceding section, be exercised as follows; (that is to say,)—

With respect to any contract, which if made between private persons, would be by law required to be in writing and under seal, such committee or the directors may make such contract on behalf of the company in writing and under the common seal of the company, and in the same manner may vary or discharge the same:

With respect to any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith, then such committee or the directors may make such contract on behalf of the Company in writing signed by such committee or any two of the directors, and in the same manner may vary or discharge the same:

With respect to any contract which if made between private persons would by law be valid although made by parol only and not reduced into writing, such committee or the directors may make such contract on behalf of the company by parol only, without writing, and in the same manner may vary or discharge the same.

And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the company and their successors, and all other parties thereto, their heirs, executors, or administrators as the case may be; and on any default in the execution of any such contract, either by the company or any other party thereto, such actions or suits may be brought, either by or against the company, as might be brought had the same contracts been made between private persons only.

Records of meetings, and of contracts, appointments, orders, &c.

84. The directors shall cause notes, minutes, or copies, as the case may require, of all appointments made or contracts entered into by the directors, and of the orders and proceedings of all meetings of the company, and of the directors and committees of directors, to be duly entered in books, to be from time to time provided for the purpose, which shall be kept under the superintendence of the directors; and every such entry shall be signed by the chairman of such meeting; and such entry so signed shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such respective meetings having been duly convened or held, or of the persons making or entering such orders or proceedings being stockholders or directors or members of committee respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which last-mentioned matters shall be presumed until the contrary be proved.

Acts of directors valid notwithstanding disqualification or defective appointment.

85. All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding it may be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were or was disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Protection to directors executing their office.

86. No director, by being party to or executing in his capacity of director any contract or other instrument on behalf of the company, or otherwise lawfully executing any of the powers given to the directors, shall be subject to be sued or prosecuted, either individually or collectively, by any person whomsoever; and the bodies or goods or lands of the directors shall not be liable to execution of any legal process by reason of any contract or other instrument so entered into, signed, or executed by them, or by reason of any other lawful act done by them in the execution of any of their powers as directors; and the directors, their heirs, executors, and administrators shall be indemnified out of the capital of the company for all payments made or liability incurred in respect of any acts done by them, and for all losses, costs, and damages which they may incur in the execution of the powers granted to them; and the directors for the time being of the company may apply the existing funds and capital of the company for the purpose of such indemnity.

The Directors—their Number, Appointment, Powers, &c.

Number of directors.

87. The number of directors shall be five—one "Government director" and four "company's directors."

Appointment of Government director.

88. The Government director shall from time to time be nominated by the Governor, who may from time to time determine any such appointment and nominate another person in his stead. The Governor shall also from time to time nominate a fit and proper person to act as a director in lieu of the Government director during the temporary illness, incapacity, or absence from the Island of the latter.

Nomination of first company's directors.

89. The first company's directors shall be the said Frederick Wesson and three other persons to be nominated by him and consenting to such nomination. The said Frederick Wesson and three other persons aforesaid shall continue in office until the first ordinary meeting of the company held after the passing of this law.

Subsequent elections of company's directors.

90. At the first general meeting of the company held after the passing of this law the stockholders present, personally or by proxy, may either continue in office the said Frederick Wesson and other three persons nominated by him as aforesaid, or any number of them, or may elect a new body of directors or directors to supply the places of those not continued in office, the said Frederick Wesson and other three persons aforesaid being eligible as members of such new body. And at the first ordinary meeting to be held every year after the present, the stockholders present, personally or by proxy, shall elect a person to supply the place of the director then retiring from office agreeably to the provisions herein-after contained; and the several persons elected at any such meeting, being neither removed nor disqualified nor having resigned, shall continue to be directors until others are elected in their stead as herein-after provided.

Continuance of directors in office until others appointed, in default of an election.

91. If, at any meeting at which an election of directors ought to take place, the prescribed quorum shall not be present within one hour from the time appointed for the meeting, no election of directors shall be made, but such meeting shall stand adjourned to the following day at the same time and place; and if at the meeting so adjourned the

prescribed quorum be not present within one hour from the time appointed for the meeting, the existing directors shall continue to act and retain their powers until new directors be appointed at the first ordinary meeting of the following year.

Qualification and disqualification of directors.

92. No person shall be capable of being a company's director unless he be a holder of at least one thousand pounds of the stock of the company; and no person holding an office or place of trust or profit under the company, or interested in any contract with the company, shall be capable of being a director; and no director shall be capable of accepting any other office or place of trust or profit under the company, or of being interested in any contract with the company, during the time he shall be a director.

How office of director becomes vacant

93. If any of the directors at any time subsequently to his election accept or continue to hold any other office or place of trust or profit under the company, or be either directly or indirectly concerned in any contract with the company, or participate in any manner in the profits of any work to be done for the company, or if such director at any time cease to be a holder of the prescribed amount of the stock of the company, then in any of the cases aforesaid the office of such director shall become vacant, and thenceforth he shall cease to vote or act as a director.

Exceptions to the two preceding sections.

94. Provided always, that no person being a shareholder or member of any corporation shall be disqualified or prevented from acting as a director by reason of any contract entered into between such corporation and the company incorporated by this law; but no such director being a shareholder or member of such corporation shall vote on any question as to any contract with such corporation; provided that nothing in this or the two preceding sections contained shall apply to a promoter, being also a director, constructing the extensions in accordance with the said agreement.

Order of retirement of directors.

95. The company's directors appointed under this law, and continued in office as aforesaid, or the directors elected to supply the places of those retiring as aforesaid, shall retire in the following order, (that is to say,)—one at the end of the current year, and one other at the end of each succeeding year, the individuals to retire being in each instance determined by ballot among the directors, unless they shall otherwise agree.

And in each instance the place of the retiring director shall be supplied by the election of a duly qualified person to take his place; and at the first ordinary meeting in every subsequent year the director who has been longest in office shall go out of office, and his place shall be supplied in like manner; nevertheless, every director so retiring from office may be re-elected immediately or at any future time, and after such re-election shall, with reference to the going out by rotation, be considered as a new director.

Filling up vacancies in directorship occasioned otherwise than by retirement by rotation.

96. If any company's director die or resign, or become disqualified or incompetent to act as a director, or cease to be a director by any other cause than that of going out of office by rotation as aforesaid, the remaining directors, if they think proper so to do, may elect in his place some other stockholder duly qualified to be a director; and the stockholder so elected to fill up any such vacancy shall continue in office as a director so long only as the person in whose place he shall have been elected would have been entitled to continue if he had remained in office.

General Meetings of the Company.

General meeting of stockholders.

97. The first general meeting of the stockholders of the company shall be held within one month after the incorporation of the company, and the future general meetings shall be held in the months of February and August in each year, or at such other stated periods as shall be appointed for that purpose by an order of a general meeting; and the meetings so appointed to be held as aforesaid shall be called "ordinary meetings"; and all meetings, whether ordinary or extraordinary, shall be held at some place within the Island to be appointed by the directors.

Limitation of business at such meetings.

98. No matters except such as are appointed by this law to be done at an ordinary meeting shall be transacted at any such meeting, unless special notice of such matters have been given in the advertisement convening such meeting.

Extraordinary meetings.

99. Every general meeting of the stockholders other than an ordinary meeting shall be called an "extraordinary meeting," and such meetings may be convened by the directors at such times as they think fit.

Limitation of business at such meetings.

100. No extraordinary meeting shall enter upon any business not set forth in the notice upon which it shall have been convened.

Calling of extraordinary meetings at instance of shareholders.

101. It shall be lawful for stockholders holding in the aggregate not less than one-tenth of the stock of the company, by writing under their hands, at any time to require the directors to call an extraordinary meeting of the company; and such requisition shall fully express the object of the meeting required to be called, and shall be left at

the office of the company, or given to at least three directors, or left at their last or usual places of abode; and forthwith upon the receipt of such requisition the directors shall convene a meeting of the stockholders; and if for twenty-one days after such notice the directors fail to call such meeting, stockholders of the company holding in the aggregate stock as aforesaid may call such meeting, by giving fourteen days' public notice thereof.

Notice of meetings, and of any special business thereof.

102. Fourteen days' public notice at the least of all meetings, whether ordinary or extraordinary, shall be given by advertisement in some newspaper published and circulating in the Island, which shall specify the place, the day, and the hour of meeting; and every notice of an extraordinary meeting, or of an ordinary meeting if any other business than the business hereby appointed for ordinary meetings is to be done thereat, shall specify the purpose for which the meeting is called.

Quorum of shareholders to constitute a meeting.

103. In order to constitute a meeting (whether ordinary or extraordinary) there shall be present to form a quorum, either personally or by proxy, stockholders holding in the aggregate not less than the major part of the stock of the company, and being in number not less than one for every five hundred pounds of such required proportion of stock, unless such number would be more than twenty, in which case twenty stockholders holding not less than the major part of the stock of the company shall be the quorum; and if within one hour from the time appointed for such meeting the said quorum be not present, no business shall be transacted at the meeting other than the declaring of a dividend, in case that shall be one of the objects of the meeting, but such meeting shall, except in the case of a meeting for the election of directors herein-before mentioned, be held to be adjourned sine die.

Who shall preside at such meeting.

104. At every meeting of the company one or other of the following persons shall preside as chairman; that is to say, the chairman of the directors, or in his absence the deputy-chairman (if any), or in the absence of the chairman and deputy-chairman some one of the directors of the company to be chosen for that purpose by the meeting, or in the absence of the chairman and deputy-chairman and of all the directors, any stockholder to be chosen for that purpose by a majority of the stockholders present at such meeting.

Business to be transacted at such meeting.

105. The stockholders present at any such meeting shall proceed in the execution of the powers of the company with respect to the matters for which such meeting shall have been convened, and those only; and every such meeting may be adjourned from time to time, and from place to place; and no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which such adjournment took place.

Votes regulated by stock held.

106. At all meetings of the company every stockholder shall be entitled to one vote for every twenty pounds stock.

Voting personally or by proxy. Form, Schedule D.

107. The votes may be given either personally, or by proxies, being stockholders, authorised by writing according to the form in the Schedule D. to this Law annexed, or in a form to the like effect, under the hand of the stockholder nominating such proxy, or if such stockholder be a corporation, then under their common seal; and every proposition at any such meeting shall be determined by the majority of votes of the parties present, including proxies, the chairman of the meeting being entitled to vote not only as a principal and proxy, but to have a casting vote if there be an equality of votes.

Tellers to scrutinise proxies.

108. The chairman at any meeting of the company may appoint two tellers, who shall scrutinise the proxies for the purpose of deciding whether the same are valid and in all respects in accordance with the provisions of this Law.

Vote of joint holders of stock.

109. If several persons be jointly entitled to any stock, the person whose name stands first in the register of stockholders as one of the holders of such stock shall, for the purpose of voting at any meeting, be deemed the sole proprietor thereof; and on all occasions the vote of such first-named stockholder, either in person or by proxy, shall be allowed as the vote in respect of such stock, without proof of the concurrence of the other holders thereof.

Votes of lunatics and infants.

110. If any stockholder be a lunatic or idiot, such lunatic or idiot may vote by his committee; and if any stockholder be a minor, he may vote by his guardian or any one of his guardians; and every such vote may be given either in person or by proxy.

How particular majority of votes is ascertained, evidenced and rendered.

111. Whenever in this Law the consent of any particular majority of votes at any meeting of the company is required in order to authorise any proceeding of the company, such particular majority shall only be required to be proved in the event of a poll being demanded at such meeting; and if such poll be not demanded, then a declaration by the chairman that the resolution authorising such proceeding has been carried, and an entry to that effect in the book of proceedings of the company shall be sufficient

authority for such proceeding, without proof of the number or proportion of votes recorded in favour of or against the same.

Duties of the Company as Carriers.

Company to afford facilities as carriers, and to deal fairly and equally with customers.

112. The company shall, according to its powers, afford all reasonable facilities for the receiving and forwarding and delivering of traffic upon and from the railway worked by the company, and for the return of carriages, trucks, boats, and other vehicles, and the company shall not make or give any undue or unreasonable preference or advantage to or in favour of any particular person or company, or any particular description of traffic in any respect whatsoever, nor shall the company subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; provided, however, that nothing in this section shall be construed so as to prevent the company from agreeing to carry or carrying large quantities at a lower rate than that charged by them for small quantities.

As to damages to or loss of articles, &c. delivered to be carried.

113. The company shall be liable for the loss of or for any injury done to any horses, cattle, or other animals, or to any articles, goods or things, in the receiving, forwarding or delivering thereof occasioned by the neglect or default of the company or its servants, notwithstanding any notice, condition, or declaration made and given by the company contrary thereto, or in anywise limiting such liability; every such notice, condition, or declaration shall be null and void; provided always, that nothing herein contained shall be construed to prevent the company from making such conditions with respect to the receiving, forwarding, and delivering of any of the said animals, articles, goods, or things as shall be adjudged by the court or judge before whom any question relating thereto shall be tried to be just and reasonable; provided always, that no greater damage shall be recovered for the loss of or for any injury done to any of such animals beyond the sums herein-after mentioned (that is to say), for any horse twenty pounds, for any neat cattle, per head, ten pounds, for any sheep or pigs, per head, thirty shillings, unless the person sending or delivering the same to the company shall, at the time of such delivery, have declared them to be respectively of higher value than as above mentioned, in which case it shall be lawful for the company to demand and receive, by way of compensation for the increased risk and care thereby occasioned, a reasonable per-centage upon the excess of the value so declared above the respective sums so limited as aforesaid, and which shall be paid in addition to the ordinary rate of charge; and such per-centage or increased rate of charge shall be notified in the manner prescribed in the Carriers Law, 1889, and shall be binding upon the Company in the manner therein mentioned; provided also that the proof of the value of such animals, articles, goods, and things, and the amount of the injury done thereto shall in all cases be upon the person claiming compensation for such loss or injury; provided also that no special contract between the company and any other parties respecting the receiving, forwarding, or delivering of any animals, articles, goods, or things as aforesaid shall be binding upon or affect any such party unless the same be signed by him, or by the person delivering such animals, articles, goods, or things respectively, for carriage; provided also that nothing herein contained shall alter or affect the rights, privileges, or liabilities of the company under the said Carriers Law with respect to articles of the description mentioned in the said law.

Limitation of liability in certain cases.

Absence of undue preference. Onus probandi where charges are different for similar services or goods.

114. Whenever it is shown that the company charges one trader or class of traders, or the traders in any district, lower tolls, rates, or charges for the same or similar merchandise, or lower tolls, rates, or charges for the same or similar services, than it charges to other traders or classes of traders, or to the traders in another district, or makes any difference in treatment in respect of any such trader or traders, the burden of proving that such lower charge or difference in treatment does not amount to an undue preference shall lie on the company.

Lists of fares of passengers to be exhibited at each station.

115. The company shall cause to be kept constantly exhibited, in a conspicuous place in the booking office of each station on their line, a list or lists painted, printed, or written in legible characters, containing the fares of passengers by the trains included in the time tables of the company from that station to every place for which passenger tickets are there issued.

Books showing traffic rates of charge to be kept at each station, and to be open to inspection.

116. The company shall keep, at each of its stations, a book or books showing every rate for the time being charged for the carriage of traffic other than passengers and their luggage, from that station to any place to which they book, including any rates charged under any special contract, and stating the distance from that station of every station, siding, or place, to which any such rate is charged. Every such book shall, during all

reasonable hours be open to the inspection of any person without the payment of any fee. If the company fail to comply with the provisions of this section it shall, for each offence, and in the case of a continuing offence for every day during which the offence continues, be liable to a penalty not exceeding five pounds.

Time tables, exhibition, and effect thereof.

117. The company shall keep always posted up in a conspicuous place at each of their stations a time table, showing the times of arrival at and departure from each station of each ordinary train run by the company; and the publication of such time table shall be deemed to amount to a promise, on the part of the company, to every person who may desire to travel or to have goods conveyed on the railway that, allowance being made for accidents and other unavoidable causes of delay, trains will run as advertised in such time table.

Carriage of military, militia and constabulary.

118. The company shall carry officers and men of Her Majesty's army, or the militia, or the constabulary, being in uniform and on duty, at half the ordinary rate of fare.

As to carriage of articles of a dangerous nature.

119. No person shall be entitled to carry, or to require the company to carry, upon the railway any aqua fortis, oil of vitriol, gunpowder, lucifer matches, or any other goods which, in the judgment of the company, may be of a dangerous nature; and if any person send by the railway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the bookkeeper or other servant of the company with whom the same are left at the time of so sending, he shall forfeit to the company a sum not exceeding twenty and not less than five pounds for every such offence, and it shall be lawful for the company to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact.

Carriage, receipt, and delivery of the mails.

120. The company shall convey, by any train, all such mails as may be tendered for conveyance by such train, whether such mails be under the charge of a guard appointed by the postmaster for Jamaica or not, and notwithstanding that no notice in writing requiring mails to be conveyed by such train has been given to the company by the postmaster for Jamaica. The company shall afford all reasonable facilities for the receipt and delivery of mails at any of their stations without requiring them to be booked, or interposing any other delay. Where the mails are in charge of a guard appointed by the postmaster for Jamaica, the company shall permit such guard, if he think fit, to receive and deliver them at any station by himself or his assistants, rendering him nevertheless such aid as he may require.

Remuneration for carriage of mails, &c.

121. The company shall be entitled to reasonable remuneration for any services performed by them in pursuance of this Law with respect to the conveyance of mails, and such remuneration shall be paid by the postmaster for Jamaica. Any difference between the postmaster for Jamaica and the company as to the amount of such remuneration, or as to any other question arising under this Law, shall be decided by arbitration in manner provided by the said agreement.

Power to vary the tolls on the railway.

122. And whereas it is expedient that the company should be enabled to vary the tolls upon the railway so as to accommodate them to the circumstances of the traffic, but that such power of varying should not be used for the purpose of prejudicing or favouring particular parties, or for the purpose of collusively and unfairly creating a monopoly, either in the hands of the company or of particular parties; it shall be lawful, therefore, for the company, subject to the provisions and limitations herein, and in the said agreement contained, from time to time to alter or vary the tolls by this Law authorised to be taken, either upon the whole or upon any particular portions of the railway as they shall think fit; provided that all such tolls be at all times charged equally to all persons, and after the same rate, whether per ton per mile, or otherwise, in respect of all passengers, and of all goods or carriages of the same description, and conveyed or propelled by a like carriage or engine, passing only over the same portion of the line of railway, under the same circumstances; and no reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any particular company or person travelling upon or using the railway.

Right of all persons paying the proper toll to be carried or have their goods carried on the railway.

123. It shall not be lawful for the company at any time to demand or take a greater amount of toll, or make any greater charge for the carriage of passengers or goods, than they are by this law and the said agreement authorised to demand; and upon payment of the tolls from time to time demandable all companies and persons shall be entitled to be carried or to have their goods carried on the railway, and to have all reasonable facilities and accommodation accorded to them

Lien for tolls not paid.

124. If, on demand, any person fail to pay the tolls due in respect of any carriage or goods, it shall be lawful for the company to detain and sell such carriage, or all or any part of such goods, or, if the same shall have been removed from the premises of the company, to detain and sell any other carriages or goods within such premises belonging

to the party liable to pay such tolls, and out of the monies arising from such sale to retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the overplus (if any) of the monies arising by such sale, and such of the carriages or goods as shall remain unsold, to the person entitled thereto; or it shall be lawful for the company to recover any such tolls by action at law.

Inspection of Railway.

Inspector of railway and his assistants.

125. The Governor may from time to time appoint a fit and proper person to be "Inspector of the railway," and any one or more persons to be assistant inspectors, for the purpose of inspecting the railway as well during construction as afterwards, and of making any inquiry with respect to the railway, or into the cause of any accident thereon, and of enabling the Governor to carry the provisions of the said agreement and of this or any other law relating to the railway into execution, or for any of such purposes; provided that no person so appointed shall exercise any powers of interference in the affairs of the company.

And it shall be lawful for every person so appointed at any time to enter upon and examine the said railway, whether in progress or completed, and the stations, works, and buildings, and engines and carriages belonging thereto, and to travel upon any carriage or engine free of charge.

The assistant inspectors appointed under this law shall exercise all the functions and have all the powers of the inspector; they shall nevertheless exercise the same subject to the control, directions, and superintendence of the inspector.

Powers of inspector.

126. Every inspector under this law shall, for the purpose of any inspection or inquiry which in the performance of his duties he may think it necessary to make or conduct, have the following powers; (that is to say,)

(1.) He may enter and inspect the railway, whether in progress or completed, and all the stations, works, buildings, offices, stock, plant, and machinery, belonging thereto;

(2.) He may, by summons under his hand require the attendance of any person who is engaged in the management, service, or employment of the company, and whom he thinks fit to call before him and examine for the said purpose, and may require answers or returns to such inquiries for the said purpose as he thinks fit to make from such person or company;

(3.) He may require and enforce the production of all books, papers, and documents of the company which he considers important for the said purpose.

Accidents on Railway.

Notice of certain accidents in or about the railway to be sent to the Governor.

127. Where in or about the railway, or any of the work or buildings connected with the railway, or any building or place, whether open or enclosed, occupied by the company, any of the following accidents takes place in the course of working the railway; (that is to say),

(1.) Any accident attended with loss of life or personal injury to any person whomsoever;

(2.) Any collision where one of the trains is a passenger train;

(3.) Any passenger train or any part of a passenger train accidentally leaving the rails;

(4.) Any accident of a kind not comprised in the foregoing descriptions, but which is of such a kind as to have caused, or to be likely to cause, loss of life or personal injury, and which may be specified in that behalf by any order to be made from time to time by the Governor,

the Company shall send notice of such accident, and of the loss of life or personal injury (if any) occasioned thereby, to the Governor.

Such notice shall be in such form, and shall contain such particulars as the Governor may from time to time direct, and shall in all cases be sent forthwith, or by the earliest practicable post after the accident takes place.

The Governor may from time to time by order direct that notice of any class of accidents shall be sent to him by telegraph, and may revoke any such order. Notice of every such order shall be sent to the railway company, and while it is in force notice of every accident of the class to which the order relates shall be sent to the Governor by telegraph immediately after the accident takes place.

If the company shall fail to comply with the provisions of this section it shall be liable for each offence to a penalty not exceeding twenty pounds and not less than five pounds.

Inquiries and investigations into accidents.

128. The Governor may direct an inquiry to be made by an inspector into the cause of any accident of which notice is for the time being required by or in pursuance of this law to be sent to the Governor; and where it appears to the Governor, either before or after the commencement of any such inquiry, that a more formal investigation of the accident and of the causes thereof, and of the circumstances attending the same is expedient, the Governor may, by order, direct such investigation to be held; and with respect to such investigation the following provisions shall have effect:—

(1.) The Governor may, by the same or any subsequent order, appoint any person or persons possessing legal or special knowledge to assist the inspector in holding such formal investigation, or may direct the resident magistrate of the parish, or other person or persons named in the same or any subsequent order, to hold the same with the assistance of the inspector or any other assessor or assessors named in the order:

(2.) The persons holding any such formal investigation (herein-after referred to as "the court") shall hold the same in open court, in such manner and under such conditions as they may think most effectual for ascertaining the causes and circumstances of the accident, and enabling them to make the report in this section mentioned.

(3.) The court shall have, for the purpose of such investigation, all the powers of a Court of Summary Jurisdiction when acting as a court in the exercise of its ordinary jurisdiction, and all the powers of the inspector under this law, and in addition the following powers; namely,—

(*a.*) They may enter and inspect any place or building the entry or inspection whereof appears to them requisite for the said purpose;

(*b.*) They may by summons under their hands or under the hand of either of them, require the attendance of all such persons as they think fit to call before them and examine for the said purpose, and may for such purpose require answers or returns to such inquiries as they think fit to make;

(*c.*) They may require and enforce the production of all books, papers, and documents which they consider important for the said purpose;

(*d.*) They may administer an oath and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination;

(*e.*) Every person so summoned, not being a person engaged in the management, service, or employment of the company, or otherwise connected with the company, shall be allowed such expenses as would be allowed to a witness attending on subpœna before a Court of Record; and in case of dispute as to the amount to be allowed, the same shall be referred by the Court to the Registrar of the Supreme Court, who, on request under the hand of any member of the court, shall ascertain and certify the proper amount of such expenses.

(4.) The inspector making an inquiry into any accident, and the court holding an investigation of any accident, shall make a report to the Governor, stating the causes of the accident, and all the circumstances attending the same, and any observations thereon, or on the evidence, or on any matters arising out of the investigation which they think right to make to the Governor, and the Governor shall cause every such report to be made public in such manner as he may think expedient.

Appointment of assessor with coroner on inquests arising out of such accident.

129. Where any coroner, or person appointed to act as coroner, holds or is about to hold an inquest on the death of any person, occasioned by an accident of which notice for the time being is required by or in pursuance of this law to be sent to the Governor, and makes a written request to the Governor in this behalf, the Governor may appoint an inspector, or some person possessing legal or special knowledge, to assist in holding such inquest, and such appointee shall act as the assessor of the coroner, and shall make the like report to the Governor, and the report shall be made public in like manner as in the case of a formal investigation of an accident under this law.

Offences in reference to the court or inspector conducting inquiry

130. If any person without reasonable excuse (proof whereof shall lie on him) does any of the following things, namely,—

(1.) Having been summoned, fails to attend as a witness before any inspector under this law, or before a court holding an investigation under this law, or fails, when required by the inspector or such court in pursuance of this law so to do, to make any answer, or to give any return, or to produce any document, or to make or sign any declaration, or

(2.) Prevents or impedes the inspector or such court in the execution of his or their duty,

he shall, for every such offence, incur a penalty not exceeding ten pounds, and in the case of a refusal to make any return or produce any document, not exceeding ten pounds for every day during which such failure continues; and where the offence consists of preventing or impeding as aforesaid the inspector or any member of such court, or any person called by him to his assistance, may seize and detain the offender until he can be conveniently taken before a Court of Summary Jurisdiction, to be dealt with according to law.

Appointment of an arbitrator to determine compensation.

131. Where a person has been injured or killed by an accident on the railway, the Governor, upon application in writing made jointly by the company from whom compensation is claimed, and the person if he is injured, or his representatives if he is killed, may, if he think fit, appoint an arbitrator, who shall determine the compensation (if any) to be paid by the company.

Power to appoint medical examiner in cases of injury by accident.

132. Whenever any person injured by an accident on the railway claims compensation on account of the injury, any judge of the court in which proceedings to recover such compensation are taken, or any person who, by the consent of the parties or otherwise, has power to fix the amount of compensation, may order that the person injured be examined by some duly qualified medical practitioner named in the order, and not being a witness on either side, and may make such order with respect to the costs of such examinations as he may think fit.

Byelaws.

Power to make regulations for certain purposes.

133. It shall be lawful for the company, from time to time, to make regulations for the following purposes; (that is to say,)

For regulating the times of the arrival and departure of their trains;

For regulating the loading or unloading of carriages, and the weights which they are respectively to carry;

For regulating the receipt and delivery of goods and other things which are to be conveyed upon such carriages;

For preventing the commission of any nuisance in or upon such carriages, or in any of the stations or premises occupied by the company;

And generally for regulating the conduct of all persons travelling upon or using the carriages of the company, or using their stations or railway.

But no such regulation shall authorise the closing of the railway, or prevent the passage of engines or carriages on the railway at reasonable times, except at any time when in consequence of any of the works being out of repair, or from any other sufficient cause, it shall be necessary to close the railway, or any part thereof.

Power to make byelaws.

134. For better enforcing the observance of all or any of such regulations it shall be lawful for the directors of the company to make byelaws, and from time to time to repeal or alter such byelaws and make others, provided that such byelaws be not repugnant to the laws of the Island, or to the provisions of this law; and such byelaws shall be reduced into writing, and shall have affixed thereto the common seal of the company.

Byelaws to be submitted to the Governor, and not to come into force until his approval.

135. A true copy of such byelaws made by the said directors, and certified under the seal of the company as aforesaid, shall be laid before the Governor in Privy Council for his approval; and the Governor may allow or disallow such byelaws as he may think fit. Such byelaws shall not come into operation until they have been so allowed, and it shall be lawful for the Governor to require that any byelaws laid before him under this section shall be published in one or more Kingston newspapers specified by him before he will allow such byelaws.

Byelaws may impose penalties.

136. It shall be lawful for such byelaws to impose penalties upon all persons offending against the same, not exceeding forty shillings for any one offence.

Publication of byelaws.

137. The last-mentioned byelaws, when approved as aforesaid, shall be painted on boards, or printed on paper and pasted on boards, and hung up and affixed and continued on the front or other conspicuous part of every wharf or station belonging to the company, according to the nature or subject matter of such byelaws respectively, and so as to give public notice thereof to the parties interested therein or affected thereby; and such boards shall from time to time be renewed as often as the byelaws thereon or any part thereof shall be obliterated or destroyed; and no penalty imposed by any such byelaws shall be recoverable unless the same shall have been published and kept published in manner aforesaid.

Effect and proof of such publication of approved byelaws.

138. Such byelaws, when so approved, published and affixed, shall be binding upon and be observed by all parties, and shall be sufficient to justify all persons acting under the same; and for proof of the publication of any such byelaws it shall be sufficient

to prove that a printed paper or painted board, containing a copy of such byelaws, was affixed and continued in manner by this Act directed, and in case of its being afterwards displaced or damaged, then that such paper or board was replaced as soon as conveniently might be.

Proof of bye-laws.

139. Provided always, that in all cases of prosecution for offences against the rules, byelaws, orders, and regulations of the company, the production of a written or printed paper purporting to be the rules, byelaws, orders, and regulations of the company, and authenticated by having the common seal of the company affixed thereto, shall be evidence of the existence of such rules, byelaws, orders, and regulations; and it shall be sufficient to prove that such rules, byelaws, orders, and regulations have been made public by exhibiting in a conspicuous place at the termini of the said railway for the time being, and in or upon any toll-house of the said company, a written or printed copy thereof.

Present bye-laws continued until others made.

140. Until the making by the company of any byelaws under the provisions of this law, the byelaws in force on the present railway at the time of the passing of this law shall be of full force and effect upon the railway, as if the same had been made and approved under the provisions of this law.

Offences on the Railway.

Trespass on railway.

141. If any person shall be or pass upon the railway except for the purpose of crossing the same at any authorised crossing, after having once received warning by the company, or by any of their agents or servants, not to go to or pass thereon, every person so offending shall forfeit and pay any sum not exceeding forty shillings for every such offence.

Attempt to evade fare.

142. If any person travel, or attempt to travel, in any carriage of the company without having previously paid his fare, and with intent to avoid payment thereof,—or if any person, having paid his fare for a certain distance, knowingly and wilfully proceed in any such carriage beyond such distance, without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof,—or if any person with such intent as last aforesaid knowingly and wilfully refuse or neglect, on arriving at the point to which he has paid his fare, to quit such carriage,—or if any person refuse to show or deliver up the ticket, furnished him by the company, to any servant of the company, whenever required to do so for any purpose, every such person shall, for every such offence, forfeit and pay any sum not exceeding forty shillings.

Refusal to show or deliver ticket.

Power to arrest offender and take him before a magistrate to be dealt with.

143. It shall be lawful for any officer or agent of the company, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this law, or against the byelaws of the company made under the the provisions of this law, and whose name and residence shall be unknown to such officer or agent, and convey him with all convenient despatch before some justice of the peace, without any warrant or other authority than this Law; and such justice shall with all convenient despatch remand, hold to bail, or discharge any person brought before him under the provisions of this section.

Malicious acts to endanger the safety of persons on the railway.

144. Whosoever shall unlawfully or maliciously put or throw upon or across the railway any wood, stone, or other matter or thing; or shall unlawfully and maliciously take up, remove, or displace, any rail, sleeper, or other matter or thing belonging to the railway; or shall unlawfully and maliciously turn, move, or divert, any points or other machinery belonging to the railway; or shall unlawfully and maliciously make or show, hide, or remove, any signal or light, upon or near to the railway; or shall unlawfully and maliciously do or cause to be done any other matter or thing, with intent, in any of the cases aforesaid, to endanger the safety of persons travelling or being upon the railway, shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and if a male under the age of sixteen, with or without whipping.

Malicious acts to endanger the safety of any person in any carriage, &c.

145. Whosoever shall unlawfully and maliciously throw, or cause to fall or strike, at, against, into or upon, any engine, tender, carriage or truck, used upon the railway, any wood, stone, or other matter or thing, with intent to injure or endanger the safety of any person being in or upon such engine, tender, carriage, or truck, or in or upon any other engine, tender, carriage, or truck, of any train of which such first-mentioned engine, carriage, tender, or truck, shall form part, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for any term not

exceeding two years, with or without hard labour, and if a male under the age of sixteen, with or without whipping.

Power to arrest employés of company if drunk or offending against byelaws or endangering passengers or obstructing trains, &c.

146. It shall be lawful for any officer or agent of the railway company, or for any special constable duly appointed, and all such persons as they may call to their assistance, to seize and detain any engine driver, waggon driver, guard, porter, servant, or other person employed by the company or by any person in conducting traffic upon the railway, or in repairing and maintaining the works of the said railway, who shall be found drunk while so employed upon the said railway, or who shall commit any offence against any of the byelaws, rules, or regulations of the company, or who shall wilfully, maliciously, or negligently do or omit to do any act whereby the life or limb of any person passing along or being upon such railway or the works thereof respectively shall be or might be injured or endangered, or whereby the passage of any engines, carriages, or trains shall be or might be obstructed or impeded, and to convey such engine driver, guard, porter, servant, or other person so offending, or any person counselling, aiding, or assisting in such offence, with all convenient despatch before some justice of the peace for the parish within which such offence shall be committed, without any other warrant or authority than this law, to be by such justice discharged, remanded, or held to bail, as such justice may think proper; and every such person so offending, and every person counselling, aiding, or assisting therein as aforesaid shall, when convicted before any two justices of the peace of the parish in which such offence was committed, be imprisoned with or without hard labour for any term not exceeding two calendar months, or in the discretion of the justices shall for every such offence forfeit to Her Majesty any sum not exceeding ten pounds, and in default of payment thereof shall be imprisoned, with or without hard labour as as aforesaid, for such period not exceeding two calendar months as the justices shall appoint, such commitment to be determined on payment of the amount of the penalty.

Repairs of Railway.

Railway to be kept in good repair and efficiency.

147. The company shall at all times keep up the railway, including the permanent way, sidings, stations, sheds, and all belonging to it, together with the rolling stock and other equipment of the same, in a proper and adequate state of repair, and shall from time to time as occasion requires it, replace all parts of the same as shall from wear and tear or otherwise be past repair, so that the carrying capacity of the said railway shall always be maintained at a pitch equal to that at which it stood when the railway was acquired by the company or to which it has been brought by the company by means of capital expenditure, and so that continuous communication may be had along the whole line, and so that trains may be run with safety at the speed of fifteen miles an hour, or at such greater speed as, under the traffic arrangements of the company, is attained by their fastest trains.

Power of inspector to remedy defects if the company neglects on notice to do so.

148. If in the judgment of the inspector of the railway the company makes default in observance of the obligation imposed by the preceding section, and the company shall not, on its attention being called by the inspector thereto, forthwith remedy the defect to the satisfaction of the inspector, such inspector shall forthwith report the matter to the Director of Public Works, and it shall be lawful for the inspector, on direction from the Director of Public Works, to hire workmen and procure materials, and to repair such defects himself, and the cost of such work and materials certified under the hand of the inspector, countersigned by the Director of Public Works, shall be paid by the treasurer out of the general revenues of the Island on the warrant of the Governor, and on such payment being made, unless the amount be forthwith repaid by the company, the Attorney-General, on behalf of the Government, shall be entitled to have a receiver appointed to receive all the tolls and earnings of the company in priority of any other person as if the debt were a debt by judgment of the Supreme Court. The company shall be bound to afford every proper facility to the inspector for the purpose of enabling him to carry out the provisions of this section. In any application for a receiver under this section it shall be sufficient for the Attorney-General to show that the money was paid by the treasurer on the certificate of an inspector, countersigned by the Director of Public Works as aforesaid.

Duty to run at least one train each way in every week day.

149. The company shall be bound to run at least one train on each weekday each way, available to the public for passengers and goods over the whole length of the railway, at a minimum average speed (inclusive of stoppages) of fifteen miles an hour; in case the company fail in this obligation, it shall be liable to a penalty of fifty pounds for each and every day of such failure, such penalty to be recovered by action of debt

in the Supreme Court at the suit of the Attorney-General; provided always, that if continuous safe communication along the line be interrupted so as to render it impracticable for the company on any day or days to run such train as aforesaid, such interruption shall be an answer to such action as aforesaid, provided that the company can show—

(*a.*) That it has taken prompt and energetic measures to restore communication, and

(*b.*) That it has run such trains aforesaid at the speed aforesaid over those parts of the line where the communication is not interrupted.

Winding up of Company.

Under what circumstances a winding-up petition may be presented against the company. Procedure and orders thereon.

150. It shall further be lawful for the Attorney-General on behalf of the Government of Jamaica,—in case the company shall fail—

(*a*) to keep up the line and the works and the rolling stock in good order and condition to the satisfaction of the inspector under this law, so that continuous communication may be had along the whole line, and so that trains may be run with safety at the speed of fifteen miles an hour, or at such greater speed as under the traffic arrangements of the company is attained by their trains; or

(*b*) to run at least one train on each weekday each way, available to the public for passengers and goods over the whole length of the line at a minimum average speed (inclusive of stoppages) of fifteen miles an hour;

to call the attention of the trustees of the bondholders, and of the company, to the default, and if after attention has been called as aforesaid such first-mentioned default is not remedied within six calendar months, or such second-mentioned default continues for three calendar months, to present a petition to the Supreme Court to wind up the Company.

Such petition shall be served as well on the trustees aforesaid as on the company, and if on the hearing of the said petition it be made to appear—

(*a*) that such default occurred as aforesaid;

(*b*) that attention to the same was called as aforesaid; and

(*c*) that after attention was called as aforesaid, such default was not remedied within such period as aforesaid,

the said Court shall order the company to be wound up unless, within such limited time as the Court shall in and by such order fix for the purpose, such default as aforesaid be remedied, and thereupon, on proof being made that such default was not remedied within such time as aforesaid, the Court shall make such order absolute; provided always, that if, on motion being made to make such order absolute, it be made to appear that the company have taken prompt and energetic measures to remedy such default, and that they have been prevented from doing so by the act of God, or otherwise by circumstances beyond their control, the Court shall, instead of making the said order absolute, enlarge the time previously fixed as the time within which the default aforesaid was to be remedied.

Accounts to be taken under a winding-up order.

158. On a decree being made for the winding up of the company on a petition presented by the trustees for the bondholders under section 53 of this Law, or by the Attorney-General on behalf of the Government under the preceding section, an account shall be taken by the Court—

(*a*) of the principal sum due on the first mortgage bonds remaining unredeemed and uncancelled,

(*b*) of the amount (if any) required to make up the sums received by each first mortgage bondholder within two years of the date of the winding-up order by way of interest (whether the same shall have been in satisfaction of previously accrued arrears or not) to an amount equal to three and a half per cent. per annum for such two years on the principal sum secured by his bond,

(*c*) of the second mortgage bonds outstanding, and

(*d*) of the debts of the company incurred within twelve months of the date of the winding-up order for stores, material, or rolling-stock supplied for the railway.

Proof shall be made of such debts as in case of bankruptcy, and it shall be lawful for the Attorney-General to dispute and require proof of any of such debts, even though the creditors may have recovered judgment against the company.

Final decree in winding up proceedings.

152. On such account having been taken as aforesaid, the Court shall decree—

(*a.*) That the Government of the Island do allot to each first mortgage bondholder whose bond has not been redeemed and cancelled Jamaica Government Inscribed Stock, bearing interest at the rate of three and a half per cent. per annum, at the rate of one hundred pounds stock for each one hundred pounds bond;

(*b.*) That the Government do pay to each such bondholder the sum (if any) ascertained as aforesaid by way of interest;

(*c.*) That the Government do pay the debts of the company incurred as aforesaid and proved as aforesaid;

(*d.*) That absolute possession be thereupon given to the Government of all and singular the railway and other mortgaged property, and all debts owing to the company, and all the property of the company, subject only to the claims of the second mortgage bondholders to receive their interest, at the rate of four per cent. per annum, in any year in which the net profits of the railway, after payment thereout of three and a half per cent. interest, and one per cent. sinking fund on the Inscribed Stock allotted to the bondholders, are sufficient for such payment.

Such decree shall vest the said railway and property absolutely in the Government, subject only as aforesaid, and shall be a perpetual bar to all claim or right of the stockholders of the company, and of the said trustees for the bondholders, and of every other person, to the said premises and every part thereof.

Forfeiture of Promoters' Bonds.

Procedure to declare and enforce forfeiture of bond lodged as indemnity.

153. In any case in which the Governor may claim that any portion of the one hundred thousand pounds second mortgage bonds is forfeited under the said agreement, or has been appropriated as an indemnity under the said agreement, or that the whole of the stock is forfeited under Article 31, he shall cause notice to be given to the promoters and to the company of such claim as aforesaid, and if, within one calendar month from the giving of such notice, the promoters or the company shall not give notice to the Colonial Secretary that they or either of them dispute such forfeiture or appropriation, the same shall be absolute, and effect shall be given thereto in the register book of the company; if such last-mentioned notice be given as aforesaid, the Attorney-General shall on behalf of the Government bring an action in the Supreme Court to enforce the right of the Government to such forfeiture or appropriation.

Service of notice of claim of forfeiture.

154. For the purpose of giving or receiving any such notice as aforesaid, it shall be lawful for the promoters from time to time to nominate any one of their number as their agent in this behalf, and to give notice thereof to the Governor; in default of any such nomination and notice, the said Frederick Wesson shall be deemed and taken to fully represent the promoters, and in the event of his death the Governor may treat any one of the promoters as representing the whole body.

Service of documents and notices.

155. Service of any document or notice required to be served on the promoters shall be deemed valid and effective if a copy of the same be left with the secretary, manager, or other principal officer of the company, at the principal office of the company in the Island.

Enforcing Payment of Debts by Company.

Enforcement of judgment, how restricted and enforced.

156. The engines, tenders, carriages, trucks, machinery, tools, fittings, materials, and effects constituting the rolling stock and plant used or provided by the company for the purposes of the traffic on their railway, or of their stations or workshops, shall not be liable to be taken in execution of any judgment otherwise than in accordance with the provisions of this Law; but the person who has recovered any such judgment may obtain from the Supreme Court the appointment of a receiver and if necessary of a manager of the undertaking of the company, by application to the Court by petition in a summary way; and all money received by such receiver or manager shall, after due provision for the working expenses of the railway, and other proper outgoings in respect of the undertaking be applied and distributed, under the direction of the Court, in payment of the debts of the company, and otherwise according to the rights and priorities of the persons for the time being interested therein; and on payment of the amount due to every such judgment creditor as aforesaid the said Court may, if they think fit, discharge such receiver or receiver and manager.

157. If, in any case where property of the company has been taken in execution, a question arises whether it is liable to be taken in execution notwithstanding this Law, the same may be heard and determined on an application by either party, by summons in a summary way, to the court out of which execution issued, or if the court is the Supreme Court, then to a judge of such court, and such determination shall be final and binding. Question as to liability of any property taken in execution, how settled.

On the taking out of any such summons, and on the company giving an undertaking in writing to restore the property in question to the seisor in case the decision of the Court shall be adverse to the company, the company shall be entitled to have the custody of the said property restored to it.

158. The appointment of a receiver, or receiver and manager, to enforce payment of a debt due to any person shall be superseded by the Governor or the trustees for the bondholders assuming possession of the railway under the provisions of section 52 of this Law, or by the appointment of a receiver under section 148 of this Law. Receiver superseded if Governor or trustees assume possession.

159. In all cases in which under this or any other Law a penalty has been recovered against the company, and payment of such penalty has been made out of the assets of the company, thereby diminishing the amount that would otherwise be payable during that year to the second mortgage bondholders, the Attorney-General, suing on behalf of the Government and of all other second mortgage bondholders, shall be entitled to recover by action at law against the stockholders of the company, jointly and severally, an amount equal to that by which the amount otherwise payable as aforesaid has been diminished by the payment of such penalties as aforesaid. Penalties not to be paid out of profits. Remedy, if so paid.

160. Subject to the provisions of the preceding section, no person shall be deemed to be personally liable for any of the debts or engagements of the company by reason only of his being a holder of stock therein. Freedom of stockholders from personal responsibility

Accounts.

161. The company shall keep all such books of account, and make such periodical returns of the traffic and earnings and expenses of the railway, and of the debts (if any) and assets of the Company, as the Governor shall from time to time require. Books of account and returns in reference to railway.

Audit.

162. So long as the Government continues to hold any second mortgage bonds of the company, there shall be, at such intervals as the Governor shall fix, an official audit by the Auditor-General, or by such other officer as the Governor may appoint, of all the books, accounts, and transactions of the company. The Auditor-General or other officer as aforesaid shall, for the purposes of such audit, have all the powers conferred on the Auditor-General by Law 3 of 1868 for the purposes of the audit therein mentioned. Audit of accounts.

Exemption from Taxes.

163. All lands vested in the company under this Law shall for the space of thirty years be exempt from all taxes; provided always, that nothing herein shall exempt the company from any tax on any occupied house in its possession or occupation. Exempting lands from taxation.

164. All contracts and conveyances between the Government and the promoters, or the Government and the company, or between the promoters and the company, and the bonds issued by the company under this Law, and the deed of trust to secure the same, shall be free of stamp duty. Documents free from stamp duty.

165. All plant, tools, and materials imported into the Island to be used in construction, working, or maintenance of the railway or the extension shall for a period of thirty years from the passing of this Law be exempt from all customs duties; provided always, that it shall be lawful for the Governor, from time to time to make such regulations as he may see fit to prevent the introduction or use of any of the articles aforesaid otherwise than for one of the purposes aforesaid, and after the making of such regulations, and so long as the same continue in force, the exemption conferred by this section shall be deemed to be conditional on a compliance with such regulations. Exemption of certain articles from Customs duties.

166. All land granted to the promoters under Article 34 of the said agreement shall be exempt from taxes as therein stated, but not further or otherwise. Exemption of certain lands from taxation

Miscellaneous.

167. All penalties imposed by this Law shall, except where otherwise stated, be recoverable in a summary manner before two justices of the peace. Recovery of penalties.

Repeal of Laws.

168. On the publication in the "Jamaica Gazette" of the certificate of incorporation of the company, as required by section 3 of this Law, the several Acts and Laws enumerated in Schedule E. to this Law shall be and the same are hereby repealed; but such repeal shall not affect the validity of anything heretofore done or suffered, or of any proceeding taken, before such repeal, nor shall it affect any claim or cause of action or liability, whether civil or criminal, vested or existing at the time of such repeal.

Schedule A.

SCHEDULE A.

Agreement. Section 2.

THE AGREEMENT between Messrs. Hocking and Farquharson of one part, and Mr. Frederick Wesson of the other, of 29th March 1889, and the supplemental agreement between the Governor and Mr. Frederick Wesson, of 24th May 1889.

THIS AGREEMENT, made the 29th day of March, A.D. 1889, between Henry Hicks Hocking, Attorney-General of Jamaica, and Charles Salmon Farquharson, of Savanna-la-Mar, in the Island of Jamaica, Merchant and Member of the Legislative Council of the said Island (acting on behalf of the Government of Jamaica as herein-after stated) of the one part, and FREDERICK WESSON, of the City of New York, in the United States of North America, Merchant, and his Associates, of the other part. [*See* Enclosure in No. 3.]

Supplemental agreement. Section 1.

THIS AGREEMENT made the twenty-fourth day of May, Anno Domini, one thousand eight hundred and eighty-nine, between his Excellency Sir Henry Arthur Blake, K.C.M.G., Governor of Jamaica, of the one part, and Frederick Wesson of the City of New York, in the United States of North America, Merchant, and his Associates, of the other part.

WHEREAS an agreement was made and entered into on the 29th day of March, Anno Domini, one thousand eight hundred and eighty-nine, between Henry Hicks Hocking, Attorney-General of Jamaica, and Charles Salmon Farquharson, of Savanna-la-Mar in the Island of Jamaica, Merchant and Member of the Legislative Council of the said Island (acting on behalf of the Government of Jamaica) of the one part, and the said Frederick Wesson of the other part:

And whereas it has been agreed between the parties hereto that the amendments and alterations herein-after mentioned shall be and become a part of the said agreement and be embodied therein with the like force and effect as though originally therein contained.

Now, therefore, the said Frederick Wesson agrees on his part and that of his associates that the following amendments shall become and be part of the agreement aforesaid, viz.:—Paragraph 7 of the said agreement shall read: "The promoters "agree to extend the existing railway from some point near Bog Walk Station northwards to the sea and then easterly to Port Antonio; and from May Pen or Porus or "some point between these two places through the interior of the Island to Montego "Bay."

"The promoters agree that the said railway shall be built of a gauge not less than "what is known as the 'metre gauge,' and that if after their survey they shall find that "the money available enables them to construct the extensions on the standard gauge "of four feet eight-and-a-half inches, they will so build it;" and in all other respects paragraph 7 shall remain intact as in the original agreement contained.

And paragraph 9 shall be amended by substituting the word "four" for the word "five" in line two of the copy of the said agreement printed in the "Jamaica Gazette," and by the addition at the end of the said paragraph of the following rider:—

"With the view to the gradual redemption of the said bonds within a period not to exceed fifty-five years, the company shall at the end of five years from the date of the first issue of bonds, and at the end of every year thereafter, pay to the trustees for the bondholders in the said agreement mentioned a sum equal to one per cent. on the whole of the bonds issued (including any that have been redeemed), and the said trustees shall apply the said sum to the redemption of so many of the said bonds as the said sum may be sufficient to redeem. As any such bonds are by the means aforesaid redeemed, the same shall be cancelled, but the trustees shall continue to receive the interest payable on the same, together with the one per cent. aforesaid, as if the said bonds had not been

redeemed and they were the holders thereof, and shall apply the moneys so received in further redemption as aforesaid until all the bonds shall have been redeemed and cancelled. No bond after being redeemed shall be re-issued.

"The bonds to be redeemed shall be selected by annual drawings, unless a sufficient number can be purchased at not exceeding par in the open market."

In witness whereof the said Frederick Wesson hath hereunto set his hand and seal the day and year first herein-before written.

(Signed) FREDERICK WESSON.

Signed in the presence of
CHARLES BURNETT.

SCHEDULE B.

Schedule B.

Form of Certificate of Share.

Certificate.
Section 64

The Jamaica Railway Company.

Number.

This is to certify that *A.B.*, of is the proprietor of pounds stock of the above-named company, subject to the regulations of the said company.

Given under the common seal of the said company, the day of 18

SCHEDULE C.

Schedule C.

Form of Transfer of Stock.

Transfer.
Section 67.

I, of in consideration of the sum of paid to me by of , do hereby transfer to the said pounds stock in the undertaking called The Jamaica Railway Company, standing (*or* part of the stock standing) in my name in the books of the said company, to hold unto the said his executors, administrators, and assigns (*or*, "successors and assigns,") subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said , do hereby agree to take the said stock subject to the same conditions.

As witness our hands and seals, the day of 18

SCHEDULE D.

Schedule D.

Form of Proxy.

Proxies.
Section 107.

A.B., one the stockholders of the Jamaica Railway Company, doth hereby appoint *C.D.*, of , to be the proxy of the said *A.B.*, in his absence to vote in his name upon any matter relating to the undertaking proposed at the meeting of the stockholders of the said company, to be held on the day of next, in such manner as the said *C.D.* doth think proper. In witness whereof the said *A.B.* hath hereunto set his hand (*or if a corporation, say*, "the common seal of the corporation"), the day of one thousand eight hundred and

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SCHEDULE E.

Schedule E.
Laws repealed
Section 168.

7 Vict. c. 25.
8 Vict. c. 12.
9 Vict. c. 30.
22 Vict. c. 68.
Law 28 of 1873.
Law 12 of 1875.
Law 32 of 1879.
Law 8 of 1880, sections 24 to 36, both inclusive.
Law 19 of 1882.

Enclosure 2 in No. 4.

THE ATTORNEY-GENERAL'S REPORT ON LAW 12 OF 1889.

Attorney-General's Office,
June 17th, 1889.

I HAVE examined the accompanying Law entitled The Jamaica Railway Company's Law, 1889.

The Bill confers power on the Governor to appoint a director of the company, and also an inspector of the railway and assistant-inspectors. I do not, however, consider that these persons will be "public officers" within the meaning of sub-section 3 of clause XIX. of the Governor's instructions. The Law confers no power to pay them, and it does not follow that they will be paid. As for the inspector I should imagine that the Director of Public Works would be appointed to this post, and the assistant-inspectors would be persons appointed pro hac vice. Under these circumstances I see no reason why the Governor should withhold his assent to this Law.

A resolution was carried in the Legislative Council approving of the provisional agreement made in London for the sale of the railway on the understanding that the gauge should be at least what is known as the "metre gauge," and that if after survey the promoters should find that the money enabled them to retain the present gauge they would so build it, and that the interest on the first mortgage bonds should be four instead of five per cent., and that the said bonds should be made redeemable in not less than fifty-five years by means of a sinking fund of one per cent. per annum. The resolution also asked the Governor to cause a Bill to be introduced to give effect to the provisional agreement with the above modifications. Prior to the introduction of the Bill a supplementary agreement was made to give effect to the modifications above agreed upon. In compliance with the request above referred to this Bill was introduced.

Section 2 ratifies and confirms the agreement. It was conceived that though the Council could not alter the agreement they could take occasion to clear up one or two small ambiguities. This was accordingly done by the provisoes to that section.

Section 3 provides for the incorporation of the company. Paragraphs 2, 3, and 4 were inserted at the request of the promoters so as to enable them in their capacity of promoters to form themselves into a partnership or corporation, as may best suit their convenience, for the purpose of carrying out their obligations. There is a difference, in American law, between a joint stock company and a corporation, but I am not in a position to explain exactly in what the difference consists.

Sections 4–6 follow the agreement. The proviso at the end of section 6 was inserted so as to enable the Government to deal with the bonds if forfeited (see sections 153, 155).

Section 7 follows the agreement. The first proviso was inserted, as the surplus water at the two places named is already used by the Government and the people.

As to section 8 the manager is the only employé who is a public officer. The plate-layers and persons employed in similar capacities are all dismissible at a fortnight's notice, but on their being transferred to the service of the company it was thought that they should become entitled to as much notice as persons in their respective positions are, in the absence of special agreement, entitled to.

Section 9 explains itself.

Sections 10 and 11 follow the agreement.

The definition of "promoters" in section 12 may be compared with section 22. Land may be required for the railway (see the definition section 12) after it is completed and handed over to the company (see section 21 for "additional stations," &c., also definition of "undertaking" and "works" in section 12), in that case the company will be "the promoters" within the meaning of the Lands Clauses Law.

Sections 13–16 explain themselves or are explained by the agreement.

The bridge crossing the Rio Minho mentioned in section 17 belongs to the Main Road Department. It is at present used by the railway and the public jointly.

Section 18 is a concession made by the promoters. If people are allowed to use the company's bridge they must do so at their own risk. By section 19, however, the same precautions are to be taken in the case of this bridge for the safety of the public as in the case of the other bridges.

Section 23 is taken partly from the Railway Clauses Consolidation Act, 1845, and partly from Law 8 of 1880 and Law 19 of 1882.

Sections 24–41 are taken mainly from the Railway Clauses Consolidation Act, 1845.

Sections 42–57 follow the agreement. Section 45 is founded on section 44 of the Companies Clauses Act, 1845. It will be noticed from section 49 that the payment of

one per cent. for redemption is only to begin after five years. Section 50 was inserted, as section 49 does not strictly follow the agreement. Article 20 of the latter says the covenants shall be made with the bondholders; section 49 says they shall be made with the trustees.

Section 58 follows the agreement. Section 59 is founded on section 12 of the Companies Clauses Act, 1863.

Sections 60–73 are taken from the Companies Clauses Consolidation Act, 1845, Sections 17–20. The latter part of section 68 is a novelty. Section 74 was accepted by the promoters.

Sections 75–86 are taken from sections 90–100 of the Companies Clauses Act, 1845, except section 82 which follows the agreement.

Sections 87 and 88 follow the agreement. Section 89 is based on "The Model Railway Bill" given in vol. II. of Hodges on Railways, p. 440. Sections 90–96 are founded on sections 83–89 of the Companies Clauses Act, 1845. The proviso to section 94 explains itself.

Sections 97–111 are taken from sections 66–80 of the Companies Clauses Act, 1845.

Section 112 is section 2 of the Railway and Canal Traffic Act, 1854 (17 & 18 Vict. c. 31.), except that the proviso is taken from the agreement (see article 40). Section 113 is taken from section 7 of the same Act. Section 114 is section 27 (1) of the Railway and Canal Traffic Act, 1888 (51 & 52 Vict. c. 25.). Section 115 is section 15 of the Regulation of Railways Act, 1868 (31 & 32 Vict. c. 119.). Section 116 is section 14 of 36 & 37 Vict. c. 48. Section 117 is new. It is alleged that the old Jamaica Railway gave up publishing time tables so as not to expose itself to actions for not running trains. Section 118 follows the agreement. (By the way, I have left 9 Vict. c. 23. as to the conveyance of troops by railway unrepealed, as also 9 Vict. c. 22. as to the conveyance of mails.) Section 119 is section 105 of the Railways Clauses Act, 1845. Section 120 is section 18 of 36 & 37 Vict. c. 48. Section 121 is section 19 of same Act. Section 122 is section 90 of the Railways Clauses Act, 1845. Section 123 is founded on section 92 of the same Act. Section 124 is section 97.

Section 125 follows the agreement. It is based on section 3 of the Regulations of Railways Act, 1871. Sections 126–129 are taken from sections 4–8 of the same Act. Section 130 is section 11 of the same. Sections 131 and 132 are taken from sections 25 and 26 of the Regulations of Railways Act, 1868.

Sections 133 and 134 are taken from sections 108 and 109 of the Railways Clauses Act, 1845. Sections 137 and 138 are sections 110 and 111 of the same.

Section 141 is section 23 of the Regulations of Railways Act, 1868, as amended by section 14 of the Act of 1871. Section 142 is section 103 of the Railways Clauses Act, 1845. Section 143 is section 154 of the same. Sections 144 and 145 are sections 32 and 33 of 24 & 25 Vict. c. 100. Section 146 is section 13 of 3 & 4 Vict. c. 97 slightly altered in the direction of making it less summary.

Sections 147–149 follow the agreement.

Sections 150–156 also follow the agreement, the necessary alteration being made in consequence of the modification of the original by the supplementary agreement. It will be noticed, too, that by subsection (*d*) of section 151 a limit is put on the debts of the company which the Government will have to pay should the occasion arise for it to take over the railway.

Sections 153–155 follow the agreement.

Sections 156 and 157 are taken from sections 4 and 5 of the Railway Companies Act, 1867. It will be noticed that the latter section is slightly altered.

Section 158 was thought necessary in order to maintain the priority of the first mortgage bondholders.

Section 159 follows the agreement.

Section 160 was inserted at the instance of the promoters.

Sections 161–166 follow the agreement. Section 164 goes rather beyond it in exempting the bonds, and the conveyance in trust. It was thought, however, that this was only acting up to the spirit of the agreement, though the bonds and the conveyance were not specifically mentioned.

Occasion has been taken to repeal all Laws relating to railways except the two specially above-mentioned

(Signed) HENRY H. HOCKING,
Attorney-General.

Enclosure 3 in No. 4.

MESSAGE from HIS EXCELLENCY THE GOVERNOR to the HONOURABLE THE LEGISLATIVE COUNCIL OF JAMAICA.

HONOURABLE GENTLEMEN,

I HAVE the honour to lay before you the accompanying copy of a despatch* from the Secretary of State for the Colonies on the subject of the scheme for the sale of the Jamaica Railway to a company, and the construction of extensions to Montego Bay and Port Antonio, and of the provisional agreement entered into by Mr. Hocking and Mr. C. S. Farquharson with Mr. Frederick Wesson and his associates for effecting the sale of the existing railway and the carrying out of the extensions.

The despatch from the Secretary of State encloses also two letters from Messrs. Leech, Harrison, and Forwood,† which I have the honour to submit.

HENRY A. BLAKE,
Governor.

King's House,
14th May 1889.

No. 5.

LORD KNUTSFORD to SIR H. A. BLAKE.

SIR, Downing Street, July 24, 1889.

I HAVE the honour to acknowledge the receipt of your despatch of the 25th June,‡ transmitting an authenticated copy of Law 12 of 1889 of the Legislature of Jamaica entitled "The Jamaica Railway Company's Law, 1889," with copies of messages addressed by you to the Legislative Council on the subject of the sale of the existing railway and the construction of extensions, and a newspaper report of the debate in the Council on the question of confirming the provisional agreement with Mr. Wesson and his associates, which has been confirmed with certain modifications by the above-mentioned Law.

2. I have also received your despatch of the 2nd instant,† forwarding a memorial addressed to me by certain inhabitants and taxpayers of Jamaica praying that the Law may not be allowed, and that the opinion of the Colony upon the question of adopting the agreement which it confirms may be tested by a general election of elected members of the Council.

3. Although the details of the agreement were not publicly known before the recent general election, it was then generally known in the Colony that a provisional agreement had been made by the Colonial Government for the sale of the railway to an American syndicate who were to undertake to extend it to Montego Bay and Port Antonio, and as the members who were elected were known to be in favour of ratifying such an agreement, I must assume that it was approved in principle by the electors, and I see no necessity for submitting the question again to the constituencies.

4. If the Law had contained only such provisions as are necessary for ratifying and giving effect to the provisional agreement, with the modifications contained in the supplementary agreement of the 24th May 1889, to which I see no objection, I should have been prepared at once to advise Her Majesty not to disallow it; but there is one provision in the Law which goes beyond the agreement, and which appears to me to require reconsideration.

5. I refer to the third and fourth paragraphs of section 3, which authorise the substitution for the individual promoters for the purposes of the agreement, and of the Law, of a joint stock company or corporation, which may be a foreign corporation. The object of this provision appears to be, to enable the promoters to relieve themselves of personal liability; but difficulties may arise in enforcing the liability of a foreign company or corporation either to the Government of Jamaica, under the agreement or the Law, or to landowners or other persons in the Colony under the Law; and I am not satisfied that it would be desirable that the large quantity of land to be granted to the promoters under clause 34 of the agreement should be vested in a foreign company or corporation.

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* 3rd April 1889, No. 3. † Not printed. ‡ No. 4.

6. I have to request, therefore, that you will carefully reconsider, and furnish me with a report upon, these provisions which, as at present advised, I think should be repealed, and until I receive your report I shall not tender any advice to Her Majesty upon the Law.

7. You will be good enough to communicate a copy of this despatch to the memorialists.

I have, &c.
(Signed) KNUTSFORD.

Sir H. A. Blake.

No. 6.

SIR H. A. BLAKE to LORD KNUTSFORD.
(Received August 31, 1889.)

MY LORD, King's House, August 13, 1889.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of 24th July* in the fifth paragraph of which your Lordship points out your objections to the third and fourth paragraphs of section 3 of the Jamaica Railway Law.

2. At the time of the arrival of the mail the Attorney-General was with me, to whom I showed the despatch, and the letter received from him, which I enclose, deals very fully with the objections urged by your Lordship as to these provisions, which you request me to reconsider and report upon, pending the ultimate decision to be taken by your Lordship as to the advice to be submitted to Her Majesty upon the Law.

3. As this is the first time that I have been called upon to offer any opinion on this Law, I may say at once that I have always been of opinion that it would be more prudent for this Colony to retain its paying railway and to make the necessary extensions itself, reaping the benefit of the traffic, and of the land, which, when opened up by the railway, will be a very valuable property, and will, I have no doubt, be readily disposed of. I, however, entered upon the government when the agreement had been practically completed, and at the unanimous request of the elected members of the Legislative Council, who, so far as I could learn, were influenced by the view that the making of these extensions by an American syndicate would be followed by the influx of American capital for the building of hotels, and the cultivation of the lands to be assigned to the promoters. How far these views will be verified time alone can tell. In my opinion the good lands opened up by the proposed extensions, whether made by an American syndicate or the Government of Jamaica, will be readily purchased, as large tracts of land have already been purchased by the Boston Fruit Company, an investment profitable alike to the company and the Colony. My duty, I conceived, was fulfilled by submitting the agreement to the Legislative Council in accordance with your Lordship's instructions conveyed in despatch of 3rd April 1889.†

4. As regards the provisions on which I am now to report, when the addition was suggested by Mr. Wesson to the Attorney-General, who had charge of the Bill, that gentleman laid the matter before me, and explained the effect. It seemed to me that a number of foreign promoters in partnership having been accepted it was immaterial to this Government in what manner this body of promoters should elect to associate themselves for the carrying out of the agreement. As regards possible litigation on account of the agreement it must take place in Jamaica, and provision is made by section 155 for the serving of notices, &c. upon the promoters. In the event of default by the promoters, involving the forfeiture of the 100,000*l.* lodged by them as security, all the ordinary stock is to be forfeited to the Government. There would, therefore, remain only questions in regard of the land granted to them under the agreement, and, as I assume that grants of land made by them to purchasers or otherwise must be made under our laws, I do not see how litigation can take place except in our courts. As to the recovery of any liabilities against the promoters I apprehend that the difficulty of enforcement against a foreign individual or a foreign company would be the same; therefore, in my opinion, the liberty to form a joint stock company, or a corporation, does not place the promoters in a better position as regards their dealings with this Government, or with individuals, than they would have occupied as partners, except so far as, under American law, each individual promoter can limit his liability.

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* No. 5. † No. 3.

5. There is one point only on which I must modify my opinion. On reconsideration of the agreement I find that under section 27 the penalty for breach of obligation specified in paragraph 3 of section 24 is recoverable by action of debt either against the company or against the ordinary stockholders jointly or severally. By legalising the corporation the personal liability may be very considerably lessened, but I do not apprehend that amounts to be so recovered would ever present any practical difficulty on this point.

6. The latter part of your Lordship's observation in section 5 is, of course, a matter especially for your Lordship's consideration. That one thirty-fifth part of this island should be granted to a foreign company is no light matter. But under the agreement that quantity of land was conceded to the promoters, and at the time it did not strike me, nor did it strike the Attorney-General, that their incorporation made any practical difference. If, however, any considerable proportion of the promotion money be subscribed in England I now see that the substitution of a foreign company for Mr. Wesson and his associates, of whom any considerable proportion were British subjects, would make a difference of possible political importance.

7. I have caused to be written to Mr. Wesson the letter of which I enclose a copy, as, having regard to the point at which this matter has reached, I felt that it was due to Mr. Wesson that he should have the earliest intimation of any difficulty in the ultimate confirmation of the law.

8. I have, in accordance with your Lordship's instructions, communicated a copy of your despatch to the memorialists.

I have, &c.
(Signed) HENRY A. BLAKE.

The Right Hon. Lord Knutsford, G.C.M.G.,
Colonial Office.

Enclosure 1 in No. 6.

DEAR SIR HENRY, August 11, 1889.

As I told you, I have to be off the first thing to-morrow morning on some business connected with the Board of Supervision, and, as I shall not be back until after the mail has left, I am anxious to write to you this evening on the subject of Lord Knutsford's despatch, which you received to-day, and showed me, on the subject of the Railway Bill.

I am much concerned to find that his Lordship disapproves of the third and fourth paragraphs of section 3 of the Bill which authorize the promoters to form themselves into a joint stock company or corporation. As I stated, in my report there is some difference under the law of New York between the two things, but, writing as I am at home and away from my papers, I do not quite recollect what the distinction is. The paragraphs in question were submitted to me by the legal adviser whom Mr. Wesson brought with him, and I, anticipating no difficulty, accepted them with possibly some verbal amendments.

My reasons for accepting them may be stated as follows:—While anxious not to depart from what his Lordship had sanctioned, it seemed to me that that sanction had been given to accepting as "the promoters" Mr. Wesson and his associates. It was quite well recognized that Mr. Wesson was not embarking in the enterprise alone, and that he and his co-adventurers were citizens of the United States. It was also in contemplation that Mr. Wesson or any of his associates might die, or that his interest might by voluntary assignment or by act of law become vested in some other person. It was inevitable that these persons should, for the prosecution of their enterprize, band themselves together in some form or another, and it was obvious that, as they were citizens of the United States, and would form their association in New York, such association would, as regards their relations inter se, be regulated by the law of the state to which they belonged and in which their association would have its domicile. Primâ facie, such an association would be what in our law is termed a partnership. It would, however, be composed of, comparatively speaking, numerous members, who would contribute sums differing in amount and who would have correspondingly different interests. And this is, I think, clearly involved in the scheme that was sanctioned by his Lordship. Under these circumstances, it was represented to me that the members of such an association would wish, for the sake of convenience, to form themselves into what in English law would be termed a joint stock company. Such a form of association among numerous

members with different interests, seemed to me to be so obviously a more convenient form of association than a partnership, that I raised no difficulty about it.

I am now, as I said before, much concerned to find that his Lordship, while he would have approved of a partnership, though regulated by the laws of the state of New York, demurs to accepting a New York company in the position of "promoters."

The first objection raised by his Lordship is that "the object of the provision appears "to be to enable the promoters to relieve themselves of personal liability." I can hardly think that this is the object. True, in the case of a company, it is simpler to get rid of a liability, to assign one's share, than in the case of a partnership. But had there been a partnership, it could never have been supposed that the members should be incapable of assigning and when once the capacity is admitted there does not seem to be any valid reason for rendering that which you concede difficult instead of easy. If I admitted the expression "relieve themselves of personal responsibility" at all, I would say that the object of the provision was to enable any promoter to so relieve himself by a simple process instead of driving him to recourse to more cumbrous means.

But I venture to submit, that the question of relief from personal responsibility does not at all arise. So far as the Government is concerned, I know of no responsibility that the promoters are under beyond this, they have to put down their 100,000*l.* and deposit the scrip representing it with the Government, and the Government is to appropriate this in satisfaction of forfeitures incurred until it is all gone, and when it is all gone, the Government steps in and wipes away the Jamaica Company, the promoters and all, and resumes possession of the railway and so much of the line as the promoters have built; the exaction of this forfeiture is left with the courts of Jamaica, and in this regard it makes no difference at all whether the promoters are a single individual, a partnership, or a corporation.

Again, I venture to think there is no greater difficulty in proceeding against a foreign corporation, should the occasion arise, then there is in recovering against a foreign partnership or even an individual who is domiciled, and who has his property abroad. It will be remembered that provision is made for service on the promoters in this Island.

I submit that what I have thus far written, is an answer to the suggestion that "difficulties may arise in enforcing the liabilities of a foreign company or corporation to "the Government of Jamaica."

As regards the suggested difficulty of enforcing the liabilities of such a company or corporation towards "landowners or other persons in the Colony," I venture to think that the same considerations apply. Moreover, I think the occasion can hardly arise. The Government is to supply the land for the railway outside the limits of towns and, within those limits, it is not likely that the promoters, as such, will take much, if any, land. It will be remembered that where in the law, "the promoters" are spoken of, the expression is to be held to mean the Jamaica Company, so far as relates to any work to be done on any section of the line after it has been taken over by the company. While I can hardly think that the occasion will arise for any private person to put forward any claim against the promoters as distinguished from the Jamaica Company, I may point out that such claim can only arise pending the completion of the extensions, and during the whole of that time the promoters—whether they be a company or a corporation—will have large sums due to them by the Government in respect both of current work and deferred payment, which by our law can always be attached to answer any claim arising out of a judgment of a Jamaica Court.

It remains for me to notice the apprehended difficulty arising from the fact that, as the Law stands, the large extent of land to be granted to the promoters may become vested in a foreign corporation. By Law 16, of 1871, aliens may hold real property as fully as natural-born subjects. While I am by no means blind to the evils that may possibly arise from the accumulation of so large an extent of land in the hands of any individual or number of individuals, and while, perhaps, as a matter of sentiment, I dislike the idea of such an accumulation more, when the individuals are foreigners, than I should if they were British subjects, still the point here is whether these evils are likely to be greater when those foreign individuals have formed themselves into a company, than they would be if the same persons formed a partnership. I need hardly point out to his Lordship that the statutes of mortmain have no operation here. Those statutes had their rise in the fact that when land passed into the hands of corporations which never died, the fines, &c., payable by the heir on succession never became payable. But here we have no succession duties, and if we imposed any, we should probably make some special provision as to lands in the possession of corporations. I may further point out that the object of the promoters will no doubt be to sell the lands, at any rate those

which they cannot profitably utilise themselves. If they do not sell them, they will, after ten years, have to pay quit rents, and, failing such payments, the lands will be forfeitable. We have already one large American Company (the Boston Fruit Company), which is a large proprietor of land, and is largely engaged in banana cultivation. I am certain that no difficulty has hitherto arisen from this circumstance, and I have never heard that any is apprehended. They do a great deal of good; they are large employers of labour and circulators of money; they largely increase our exports; they pay their taxes as regularly as other people. If international difficulties are apprehended, they would arise equally in the case of a partnership. But such difficulties need not be apprehended. We do not part with any right to legislate as to our own soil.

I venture to express a strong hope that his Lordship may see fit to assent to the law in its present shape. The inevitable delay that has attended these negociations, and even the equally inevitable delay in proclaiming that Her Majesty will not disallow the law, have caused immense difficulties to the promoters in carrying through a large commercial enterprise. Your Excellency saw, I know, a private letter from Mr. Wesson to Mr. Farquharson, dated some five weeks ago, in which the writer then spoke of the difficulties which arose in the way of floating the scheme financially owing to the uncertainty that then existed as to the final assent to the Bill being given. To attempt now to reopen any part of the question would, I feel convinced, be fatal to Mr. Wesson's enterprise. He has to get a considerable number of persons both to put down their ready money and to enter into engagements to the extent of more than half a million sterling. How can he hope to do this, or even to proceed with his negociations to that end, if a question is reopened *in limine* as to the way in which the adventurers are to be allowed to associate themselves? I venture to think that even the publication of his Lordship's despatch would at once undo all that Mr. Wesson has been able to do in this direction since the law was passed here. If he were now informed that he must suspend his efforts pending an alteration of the law, I very much doubt whether he would ever consent to recommence them, or, even if he did, under the altered circumstances, whether he would have a chance of success.

In short, I venture to express my confident opinion, that if his Lordship feels it his duty to adhere to the objection he has put forward, the whole project, which has I think by this time come to be regarded with favour if not with enthusiasm by almost the entire community, will be defeated.

I have, &c.
(Signed) HENRY H. HOCKING.

His Excellency Sir H. A. Blake, K.C.M.G.

Enclosure 2 in No. 6.

THE COLONIAL SECRETARY to Mr. WESSON.

SIR, Colonial Secretary's Office, August 12, 1889.

WITH reference to your letter of the 17th ultimo in which you say that you expect shortly to deposit the sum of 100,000*l.* as per Article 3 of the Jamaica Railway Law, and ask to be informed in what manner it would be most acceptable to this Government that it should be done, I am desired by the Governor to state that he has received a despatch dated 24th July from the Secretary of State for the Colonies in which his Lordship remarks that there is one provision in the Law which goes beyond the agreement, and which appears to the Secretary of State to require reconsideration, viz., the third and fourth paragraphs of section 3 which authorise the substitution for the individual promoters for the purposes of the agreement and of the Law of a joint stock company or corporation, which may be a foreign corporation.

His Lordship proceeds to say that, as at present advised, he thinks these provisions should be repealed, and asks for a report thereon from the Governor, adding that until furnished with such report he shall not tender any advice to Her Majesty upon the Law as to its allowance or otherwise.

I am desired by the Governor to request you to have the goodness to inform him whether you have any objection to the repeal of the provisions in question.

I have, &c.
(Signed) NEALE PORTER,
Colonial Secretary.

Frank Wesson, Esq.
New York.

No. 7.

LORD KNUTSFORD to SIR H. A. BLAKE.

TELEGRAPHIC.

Sept. 2, 1889. Upon report of yourself and Attorney-General I shall not press amendment required in Railway Law; will not be disallowed.

No. 8.

LORD KNUTSFORD to SIR H. A. BLAKE.

SIR, Downing Street, September 4, 1889.

I HAVE the honour to acknowledge the receipt of your despatch of the 13th ultimo* on the subject of the Jamaica Railway Law.

2. The report of the Attorney-General of Jamaica enclosed in your despatch answers to some extent the objections which appeared to me to attach to the provision in section 3 which authorises the substitution of a foreign corporation for the promoters for the purposes of the railway agreement and the law, and as you do not appear to anticipate any practical inconvenience from that provision, which has been approved by the Legislative Council, being allowed to remain in force I have decided not to press for its repeal.

3. I have accordingly to inform you that Her Majesty will not be advised to exercise Her power of disallowance with respect to the Jamaica Railway Company's Law, 1889.

4. With reference to the fifth paragraph of your despatch I would observe that the incorporation of the promoters as a corporation distinct from the railway company would not affect the liability of individual shareholders of the railway company under section 27 of the agreement.

I have, &c.
(Signed) KNUTSFORD.

Sir H. A. Blake.

No. 9.

SIR H. A. BLAKE to LORD KNUTSFORD.
(Received November 25, 1889.)

MY LORD, King's House, October 31, 1889.

I HAVE the honour to forward an authenticated copy of Law 21 of 1889 entitled "The Jamaica Railway Company's Law Amendment Law, 1889," which has been passed by the Legislative Council, together with the Attorney-General's report thereon.

I have, &c.
(Signed) HENRY A. BLAKE,
Governor.

The Right Hon.
The Secretary of State for the Colonies.

Enclosure 1 in No. 9.

JAMAICA LAW 21 of 1889.

The Jamaica Railway Company's Law Amendment Law, 1889.

[26th October 1889.]

Preamble. Law 12 of 1889.

BE it enacted by the Governor and Legislative Council of Jamaica, as follows:—

1. Schedule E. of the Jamaica Railway Company's Law, 1889, (Law 12 of 1889,) is hereby amended by substituting for the words and figures "22 Vict. c. 68" the words and figures "Law 22 of 1868."

Schedule E. amended.

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* No. 6.

Enclosure 2 in No. 9.

REPORT of the ATTORNEY-GENERAL on LAW 21 of 1889.

October 25, 1889.

I HAVE examined the accompanying Law entitled The Jamaica Railway Company's Law Amendment Law, 1889, and I am of opinion that the Law is one which is not contrary to the Governor's instructions.

This Law corrects a verbal error that was not noticed at the time of the passing of Law 12 of 1889. There is no such Law in Jamaica as 22 Victoria chapter 68.

(Signed) T. BANCROFT OUGHTON,
Acting Attorney-General.

No. 10.

SIR H. A. BLAKE to LORD KNUTSFORD.
(Received February 3, 1890.)

MY LORD, King's House, January 10, 1890.

WITH reference to previous correspondence on the subject, I have the honour to inform your Lordship that the terms and provisions of section 7 of the Jamaica Railway Company's Law, 1889, relating to the transfer of the Jamaica Railway having been complied with by the company and the promoters, I caused the railway to be handed over to the newly-constituted railway company on the 1st instant, and the necessary instructions have been issued by me for the preparation of a formal deed of transfer of the property to the Jamaica Railway Company.

I have, &c.
(Signed) HENRY A. BLAKE,
Governor.

The Right Hon. Lord Knutsford, G.C.M.G.,
&c. &c. &c.

No. 11.

LORD KNUTSFORD to SIR H. A. BLAKE.

SIR, Downing Street, February 4, 1890.

I HAVE the honour to acknowledge the receipt of your despatch of the 10th ultimo* reporting that you have caused the Jamaica Railway to be handed over on the 1st January to the newly-constituted railway company.

I have to request that you will furnish me with the names of the promoters who are also the first shareholders of the company, and of the directors.

I have, &c.
(Signed) KNUTSFORD.

Sir H. Blake.

No. 12.

SIR H. A. BLAKE to LORD KNUTSFORD.
(Received March 17, 1890.)

MY LORD, King's House, February 25, 1890.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch dated the 4th instant,† and in reply thereto to furnish the names of the promoters who are

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* No. 10. † No. 11.

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Shri Brihad Bhartiya Samaj
on 31 October, 2019

also the first shareholders of the Jamaica Railway Company, and the names of the directors.

Promoters.

Frederick Wesson.
Elias L. Frank.
Ansley S. Davis.

Directors.

Company's directors { Frederick Wesson. / Elias L. Frank. / George Henry Latham. / W. R. Bailey.

Government director.—L. F. Mackinnon.

I have, &c.,
(Signed) HENRY A. BLAKE,
Governor.

The Right Hon. Lord Knutsford, G.C.M.G.,
&c. &c. &c.